

TOWN OF PALM BEACH

ZONING CODE



TOWN OF PALM BEACH, FLORIDA

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ARTICLE I. INTRODUCTION & USING THIS CODE



Introduction & Using This Code

Sec. 134-1 Title; Effective Date.

This Code shall be known and cited as “The Town of Palm Beach Zoning Code” and hereinafter referred to as the/this “Code” or “these regulations.” The effective date of this Code is ____.

Sec. 134-2 Purpose and Intent.

The purpose of this Code is to implement the recommendations in the Town’s Comprehensive Plan pursuant to Chapter 163, Section 3202, Florida Statutes, for the protection and promotion of the safety, health, comfort, morals, convenience, peace, prosperity, appearance, and general welfare of the Town and its inhabitants. These regulations are intended to maintain and preserve the Town’s unique built, natural, and social environment while protecting property rights and property values.

Sec. 134-3 Applicability; Conflicting Provisions; Savings Clauses; Severability

- (a)** No structure, lot, or part thereof, shall hereafter be used or occupied, and no structure, or part thereof, shall hereafter be erected, constructed, reconstructed, moved, or altered except in conformity with all applicable regulations herein.
- (b)** These regulations are not intended to nullify, abolish, or repeal any easement, covenant, declaration of use agreement, variance, special exception, approval, or other private agreement or restriction.
- (c)** In their interpretation and application, these regulations shall be held to be minimum requirements (unless a maximum standard is established) adopted for the promotion of the stated purposes and intent of this Code.
- (d)** In the case of any conflict or inconsistency between two or more provisions of this Code or any other of the Town of Palm Beach Code of Ordinances, the provision which imposes the greater, higher, or more restrictive standard shall control.
- (e)** Wherever special or unusual conditions or circumstances exist, or wherever there is an apparent safety hazard, the Town Council may prescribe additional requirements in order to promote and protect the health, safety, morals, and general welfare of the Town and its inhabitants.
- (f)** Except as expressly provided in this Code, the adoption of this Code shall not:
 - (1)** Nullify or make void any action pending under, or by virtue of, any prior ordinance;
 - (2)** Discontinue, nullify, void, abate, modify or alter any penalty accruing or about to accrue under, or by virtue of, any prior ordinance;
 - (3)** Affect the liability of any person, firm, or corporation under, or by virtue of, any prior ordinance; or

- (4) Waive any right of the Town under any section or provision of any prior ordinance.
- (g) If any provision, section, subsection, paragraph, sentence, clause, or phrase of this Code is for any reason found to be invalid or inoperative, or shall be held by any court to be unconstitutional, invalid or unenforceable, the remainder of the provisions of this Code shall nevertheless continue in full force and effect.

Sec. 134-4 **Districts.**

All land within the Town limits is divided into districts that contain use, lot, and development standards specific to each district. The following districts are hereby established and designated as follows:

Table 134-4 (i) — Districts.	
District Name	Designation
RESIDENTIAL DISTRICTS	
Estate Residential District - Large	R-AA
Estate Residential District - Water-Oriented	R-A
Neighborhood Residential District - Single-Unit Detached Dwelling	R-B
Neighborhood Residential District - Multi-Unit Attached Dwelling	R-C
Multi-Unit Residential District - Medium	R-D(1)
Multi-Unit Residential District - Large	R-D(2)
COMMERCIAL DISTRICTS	
Town Commercial District	C-TC (formerly C-TS)
Worth Avenue District	C-WA
Royal Palm Gateway District	C-PG (formerly C-OP and C-OP1)
Royal Poinciana District	C-RP (formerly C-PC)
OTHER DISTRICTS	
Civic & Institutional District	CI
Conservation District	C
Beach Area District	B

Sec. 134-5 **Zoning Map.**

- (a) The districts are shown on the Zoning Map, which, together with all explanatory matter thereon, is adopted by reference and declared to be a part of this Code.
- (b) The Zoning Map shall be maintained by the Director, kept on file in the office of the Town Clerk, and hosted online on the Town's official website, www.townofpalmbeach.com.
- (c) The online map shall be the final authority as to the current zoning status of all areas of the Town.
- (d) No changes of any kind shall be made to the Zoning Map or any matter shown thereon except in accordance with the procedures set forth in Article V of this Code.

Sec. 134-6 Rules for Interpreting District Boundaries on the Zoning Map.

- (a) District boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- (b) District boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) District boundaries indicated as approximately following Town limits shall be construed as following such Town limits.
- (d) District boundaries indicated as following shorelines shall be construed as moving with the actual shoreline.
- (e) District boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.
- (f) District boundaries indicated as parallel to or extensions of features listed above shall be so construed.
- (g) Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
- (h) Where a district boundary line divides a lot that was in single ownership at the time of passage of this Code, the Director may permit the extension of the regulations for either portion of the lot beyond the district line into the remaining portion of the lot.

Sec. 134-7 Rules of Measurement and Calculation.

(a) Measuring structure height.

- (1) The maximum height of a structure shall be measured from the point of base measurement to the highest point of the roof system.
- (2) Such measurement 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 feature shall be erected only to such height and size as is necessary to accomplish the purpose it is intended to serve.
- (3) The height of outside exterior walls is measured from the point of base 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.
- (4) The structure height point of measurement (zero datum) shall be the greater of the following as applied to the location of the lot:
 - i. For lots in the Special Flood Hazard Area, and not seaward of the Coastal Construction Control Line (CCCL), the point of measurement shall be at the current FEMA base flood elevation plus one foot (1') of freeboard.

- ii. For lots seaward of the CCCL, the point of measurement shall be 15.9 feet (15.9') NAVD (13.9 feet (13.9') NAVD plus two feet (2') above the lowest horizontal structural member).
- iii. 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 (18") above the highest street elevation of the crown of the public or private street or road, measured along the front lot line of the subject lot.
- iv. 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 structure on the subject lot.

(b) Exceptions to height limitations. The following are exceptions to the height limitations in the residential districts:

- (1) Skylights may extend not more than three feet (3') above the roof on which it is located.
- (2) Air conditioning equipment may extend not more than four feet (4') above the roof on which it is located.
- (3) Flagpoles, chimneys, and radio or television antennas may be erected to a height not to exceed ten feet (10') above the highest point of the roof. Flagpoles in excess of this height may be permitted by special exception on lots of greater than five (5) acres in total area, provided the flagpole is not in excess of seventy feet (70') in height and is setback at least one hundred twenty feet (120') from any lot line.
- (4) In the R-AA and R-A residential districts, observation towers may be constructed as an integral part of a single-unit dwelling and the height of such tower may exceed the maximum structure height by up to ten feet (10'); provided, however, that the area of such tower shall not exceed one percent (1%) of the gross floor area of the single-unit dwelling to which it is attached.

(c) Measuring distance. When measuring distance, such as the minimum distance between a structure and a lot line, the measurement is deemed to be the closest or shortest distance between them.

(d) Measuring setbacks.

- (1) The front setback is measured at a right angle from the right-of-way line.
- (2) The rear setback is measured at a right angle from the rear lot line, the rear right-of-way where there is an alley, or the easement line where there is a utility strip.
- (3) Side interior setbacks are measured at a right angle from the side lot line.
- (4) For a through lot, the required front yard must be provided along each street.
- (5) For a corner lot, the side street setback is measured at a right angle from the side street right-of-way line.

- (6) The Director will determine setbacks for irregular shaped lots.

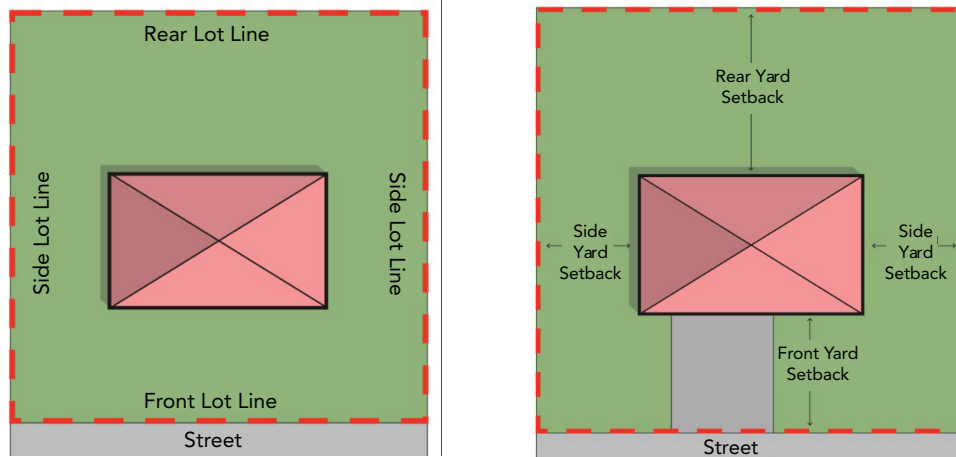


Diagram 134 (1) — Measuring setbacks and lot lines

(e) **Corner lots.**

- (1) Where any lot is located on a corner formed by the intersection of two streets, the front lot line shall be the shorter length of the two street side lot lines, and the side lot line shall be the longer length of the two side street lot lines; provided, however, that the Director may determine that the front lot line should be located along the longer of the two street side lot lines if the existing development pattern on the same street requires for consistency purposes that the front facade of the structure be oriented toward the longer lot line.
- (2) The required street side yard shall have the same minimum setback as the minimum front yard setback applicable to lots on the same side of the street..

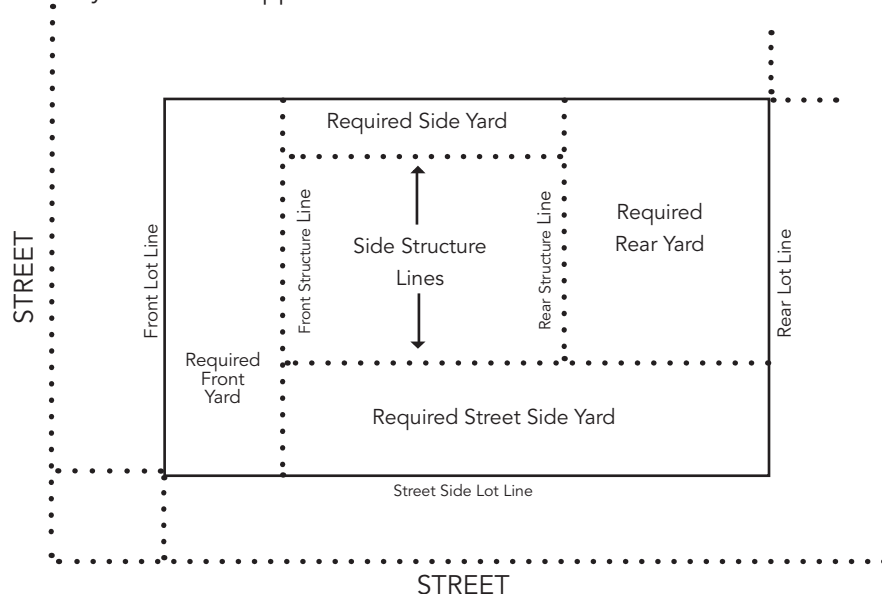


Diagram 134 (2) - Corner lot yards.

- (f) **Determining average grade.** Average grade is determined by calculating the average of the highest and lowest elevation along the natural or improved grade (whichever is more restrictive) along the front of the structure parallel to the front lot line.

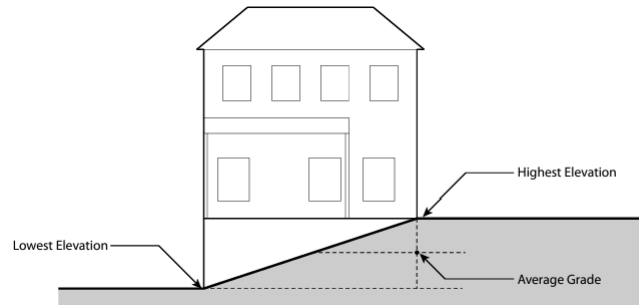


Diagram 134 (3) — Determining average grade

- (g) **No aggregation.** Unless otherwise expressly permitted herein, no part of any required yard, open space, landscaping, or off-street parking or loading space, shall be used to satisfy such requirements on any other lot.
- (h) **Permitted encroachments into required yards.**
- (1) The following may encroach into any required yard:
- a. Fences, walls, and gates;
 - b. Sidewalks and driveways;
 - c. Landscaping;
 - d. Structure eaves, roof overhangs, gutters, downspouts, light shelves, bay windows, and oriel any of which being less than ten feet (10') in depth;
 - e. Chimneys, flues, cornices, belt courses, sills, buttresses, or other similar architectural features by up to three feet (3'), provided that such extension is a minimum of two feet (2') from any lot line;
 - f. One fully open pergola up to nine feet (9') in height by up to five feet (5');
 - g. One arbor up to eight feet (8') in height and covering not more than fifteen square feet (15') in total area.
- (2) The following may encroach into a required side or rear yard:
- a. Unenclosed patios, decks, terraces, or porte cochere, provided that such extension is at least three feet (3') from any lot line. For purposes of this subsection, the term "unenclosed" shall mean completely open on at least three sides, except for any necessary support columns, each of which shall not be greater than one foot (1') in diameter or one foot (1') in width.
- (3) The following may encroach into a required front or side yard:

- a. An awning or canopy provided that such extension is at least three feet (3') from any lot line.
 - b. First floor entry ramps, landings, terraces, and/or steps may encroach by up to six feet (6').
- (4) The following may encroach into a required front setback:
- a. Front porches by up to six feet (6') from the front structure wall nearest to the front lot line, and such that no portion of the porch is closer than ten feet (10') from any lot line. Front porches shall be open on three sides and shall not contained any screens, windows, or other coverings, and all support columns shall not be greater than one foot (1') in diameter or one foot (1') in width.

Sec. 134-8 Rules of Interpretation.

- (a) Whenever a defined word appears in this Code, its meaning is as set forth in Article VI below. Words not defined in this Code are interpreted in accordance with their usual dictionary meaning and customary usage in the State.
- (b) All references to other regulations or manuals in this Code refer to the most current version and citation unless expressly indicated otherwise. When the referenced regulations or manuals have been repealed and not replaced by other regulations or manuals, requirements herein for compliance with such regulations or manuals are no longer in effect.
- (c) Illustrations, diagrams, and flowcharts are included in this Code to illustrate the intent and requirements of the text. In the case of a conflict between the text and any illustration, diagram, or flowchart, the text shall control.
- (d) Except as otherwise noted, any fraction greater than or equal to 0.5 will be rounded up to the nearest whole number. Any fraction less than 0.5 will be rounded down to the nearest whole number.
- (e) The language of this Code shall be interpreted in accordance with the following:
 - (1) The word "person" includes a firm, association, organization, partnership, trust, limited liability company, corporation, or other legal entity, as well as an individual.
 - (2) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular, in each case, if the context so requires.
 - (3) The word "shall" is mandatory, the word "may" is permissive.
 - (4) The words "used" or "occupied" include the words "intended," "designed," "constructed," "altered," or "arranged" to be used or occupied.
 - (5) The word "lot" includes the words "plot," "tract," "lot," "lot," and "lot."
 - (6) The terms "standards," "regulations," and "requirements" are used to mandate a specific course of action or outcome.

- (7) Where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and” or “either ... or,” the conjunction shall be interpreted as follows:
- a. “And” indicates that all the connected items, conditions, provisions or events shall apply.
 - b. “Or” indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.
 - c. “Either ... or” indicates that all the connected items, conditions, provisions, or events shall apply singularly but not in combination.

Sec. 134-9 Uses Generally.

- (a) Uses in this Code are either permitted by-right or by special exception. Permitted uses may be permitted with conditions expressly set forth herein. Special exception uses may be conditioned by Town Council as set forth in Article V below.
- (b) All uses herein not listed as permitted or permitted by special exception shall be prohibited. Prohibited uses shall not be allowed unless by amendment to this Code as set forth in Article V below.
- (c) Essential services of the Town, State, or a public utility company, may be allowed by special exception in all districts if the location is determined by the Town Council to be the most advantageous to the public health, safety, and welfare of the Town and its inhabitants.
- (d) No use shall include a drive-through or drive-up window.
- (e) Sidewalk sales shall be permitted in any commercial district under the following circumstances:
 - (1) Items shall only be located on the sidewalk during regular business hours and for only one (1) 24-hour period each month.
 - (2) Sidewalk sale items shall not block any pedestrian way and shall be placed on the sidewalk in a manner that does not interfere with any pedestrian or assisted mobility.
 - (3) No signage shall be permitted.

Sec. 134-10 Similar Use Determinations.

A use not expressly listed as permitted or allowed by special exception may be similar enough to a use that is expressly listed such that it should be permitted or allowed by special exception. In those instances, the Director shall have the authority to make a similar use determination if the Director determines that such use is consistent with the intent set forth in the applicable district and is compatible with use characteristics typical of uses permitted within such district. The Director shall determine the appropriate district for any use which is not specifically set forth herein.

Sec. 134-11 Changes to Lot Topography.

The natural grade and topography of a lot shall not be altered to raise the grade to meet base

flood elevation requirements.

Sec. 134-12 Prohibited Materials.

The following materials are not permitted on any structure:

- (a) Black or dark colored asphalt shingles;
- (b) Vinyl siding;
- (c) Unfinished concrete or unfinished metal of any kind on the exterior of a structure.

Sec. 134-13 Other Relevant Regulations.

The Town of Palm Beach Code of Ordinances contains regulations outside of this Code that may be relevant to the use and development of lots and structures, including the following:

- (a) Chapter 6 – Alcoholic Beverages
- (b) Chapter 18 – Structures and Structure Regulations
- (c) Chapter 42 – Environment
- (d) Chapter 46 – Fire Prevention and Protection
- (e) Chapter 54 – Historical Preservation
- (f) Chapter 62 – Marine Structures
- (g) Chapter 66 – Natural Resource Protection
- (h) Chapter 74 – Parks and Recreation
- (i) Chapter 88 – Lot Maintenance Code
- (j) Chapter 110 – Subdivisions
- (k) Chapter 116 – Telecommunications
- (l) Chapter 122 – Utilities
- (m) Chapter 126 - Vegetation

Sec. 134-1 Code Roadmap - How to Use this Code.

STEP 1

Locate your lot and applicable district on the Zoning Map.

STEP 2

Locate the applicable district regulations below.

STEP 3

Determine what uses and development standards apply to your district.

STEP 4

Determine if any generally applicable regulations apply in Article III.

STEP 5

Determine if any nonconformities exist and how to address them in Article IV.

STEP 6

Determine if any approvals are necessary and how to apply for them in Article V.

ARTICLE II: DISTRICTS



TOWN OF PALM BEACH, FLORIDA

www.townofpalmbeach.com

THE PALM BEACH
RESIDENTIAL
Districts



Sec. 134-14 Introduction to the Residential Districts.

The following districts are established to preserve and promote desired residential uses and development patterns therein.

Table 134-14 (i) — Residential Districts.	
District Name	Symbol
Estate Residential District - Large	R-AA
Estate Residential District - Water Oriented	R-A
Neighborhood Residential District - Single-Unit Detached Dwelling	R-B
Neighborhood Residential District - Multi-Unit Attached Dwelling	R-C
Multi-Unit Residential District - Medium	R-D(1)
Multi-Unit Residential District - Large	R-D(2)

Sec. 134-15 Additional Regulations.

In addition to the lot and development standards herein, additional regulations, including those for off-street parking and loading, signage, landscaping, and equipment may also apply. See Article III below.

Sec. 134-16 Accessory Uses and Structures in Residential Districts.

- (a) Accessory uses permitted in the residential districts shall be those uses that are determined by the Director to be customarily incidental to the principal residential use. All other accessory uses shall be prohibited. Residential accessory uses that are customarily

incidental to principal residential uses include, but are not necessarily limited to, private garages, cabanas, beach houses, and private outdoor sporting facilities.

- (b) All accessory structures in residential districts shall be constructed and maintained in accordance with the following standards:

Table 134-14 (ii) — Residential Accessory Structure Standards.

Standard	Numerical Standard
Accessory Structure - one story principal structure (maximum)	1 story or 15 ft.; roof may extend up to an additional 5 ft.
Accessory Structure - two story principal structure (maximum)	2 stories or 22 ft.; roof may extend up to an additional 5 ft.
Rear Yard Setback (minimum)	10 ft.
Side Yard Setback (minimum)	10 ft.
Location	Side or rear yard only

- (c) Any accessory structure with sleeping quarters shall be used only for occupancy of nonpaying guests of the owners of the principal residential structure, bona fide household members of the owner of the principal residential structure, or household employees of the principal residential structure, and no kitchen or cooking facilities shall be constructed or used therein except by submission of a written declaration of use agreement approved by Town Council.
- (d) If any accessory structure is subdivided from the lot containing the principal structure to which it is accessory or, alternately, if the principal structure is demolished or removed, the use of such accessory structure shall be terminated until a new principal structure is constructed on the lot on which the accessory structure is located.
- (e) No accessory structure shall have a gross floor area of more than fifty percent (50%) of the gross floor area of the principal structure and shall count toward any applicable maximum impervious surface coverage.
- (f) A dock is an accessory structure even if located entirely or partially on water; provided, that any such dock shall not be counted toward any applicable maximum impervious surface coverage.

Sec. 134-17 Permitted Residential Structures.

The following residential structures are permitted as set forth herein:

- (a) Single-Unit Dwelling
- (b) Two-Unit Attached Dwelling
- (c) Townhouse
- (d) Multi-Unit Dwelling

R-AA & R-A

The Estate Residential Districts

Sec. 134-18 Purpose.

The purpose of the Estate Residential Districts is to provide for single-unit detached dwelling estate living on lots larger than one and one-half (1 1/2) acres in the R-AA Estate Residential District - Large and one-half (1/2) acre in the R-A Estate Residential District - Water Oriented.

Sec. 134-19 Uses.

- (a) The sole principal use permitted in the R-AA and R-A Districts is a single-unit detached dwelling.
- (b) Essential services may be allowed if approved by special exception.
- (c) For accessory uses, see Sec. 134-16 above.
- (d) Only one (1) principal structure shall be permitted on a lot.

Sec. 134-20 Lot and Development Standards.

The following lot and development standards shall apply to the Estate Residential Districts as indicated:

Table 134-20 (i) — Lot Standards.		
Standard	R-AA	R-A
Lot Area (minimum)	60,000 sq. ft.	20,000 sq. ft.
Lot Width (minimum)	150 ft.	125 ft.
Lot Depth (minimum)	150 ft.	150 ft.

Table 134-20 (ii) — Development Standards.		
Standard	R-AA	R-A
Front Yard Setback (minimum)	35 ft.	35 ft.
Side Yard Setback (minimum)	30 ft. each side	15 ft. each side (30 ft. each side for lots of 60,000 sq. ft. or more)
Rear Yard Setback (minimum)	15 ft.	15 ft.
Exterior Structure Wall Height (maximum)	30 ft.	25 ft.
Structure Height (maximum)	40 ft.; 2 stories	35 ft.; 2 stories
Impervious Surface Coverage (maximum)*	55% of the total lot area	65% of the total lot area

* The remainder of the lot shall be comprised of pervious surface coverage, including landscaped or natural vegetative areas, pervious paver systems, water features, swimming pools, or gardens. Impervious surfaces shall not comprise more than 45% of the front yard.

R-B & R-C

The Neighborhood Residential Districts

Sec. 134-21 Purpose.

The purpose of the Neighborhood Residential Districts is to provide for detached single-unit dwelling uses in the R-B Single-Unit Detached Dwelling District and attached single-unit dwelling residential uses in the R-C Multi-Unit Attached Dwelling District for the promotion, protection, and preservation of existing small-scale residential neighborhood development patterns while providing for context-sensitive residential infill development and redevelopment.

Sec. 134-22 Uses.

- (a) The sole principal use permitted in the R-B District is a single-unit detached dwelling.
- (b) The following principal uses are permitted in the R-C District:
 - i. Single-unit detached dwelling;
 - ii. Two-unit attached dwelling;
 - iii. Townhouses.
- (c) Essential services may be allowed if approved by special exception.
- (d) For accessory uses, see Sec. 134-16 above.
- (e) Only one principal structure shall be permitted on a lot. For these purposes, attached dwellings shall be considered one principal structure.

Sec. 134-23 R-B District Lot and Development Standards.

The following lot and development standards shall apply to the R-B District, as indicated, and shall apply specifically to the Sea Streets within the R-B District, as indicated:

Table 134-23 (i) — Lot Standards.

Lot Standard	R-B District	R-B Sea Streets
Lot Area (minimum/maximum)	10,000 sq. ft. / 20,000 sq. ft.	7,500 sq. ft. / 15,000 sq. ft.
Lot Width (minimum)	100 ft.	75 ft.
Lot Depth (minimum)	100 ft.	100 ft.

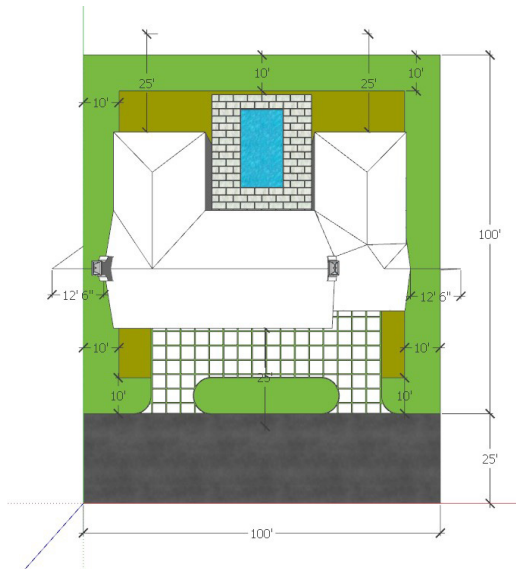
Table 134-14 (ii) — Development Standards.

Lot Standard	R-B District	R-B Sea Streets
Front Yard Setback (minimum)	25 ft. for one-story; 35 ft. for two-story	20 ft. for one-story; 30 ft. for two-story

Table 134-14 (ii) — Development Standards.

Lot Standard	R-B District	R-B Sea Streets
Side Yard Setback (minimum)	12.5 ft. each side yard for one-story; 15 ft. each side yard for two-story	10 ft. each side yard
Rear Yard Setback (minimum)	25 ft. for one-story; 35 ft. for two-story	20 ft.
Exterior Structure Wall Height (maximum)	14 ft. for one-story; 22 ft. for two-story	14 ft. for one-story; 22 ft. for two-story
Structure Height (maximum to top of highest gable)	22 ft. for one-story; 30 ft. for two-story	22 ft. for one-story; 30 ft. for two-story
Building Footprint (maximum)	40% for one-story; 20% for two-story	33%
Second-Story Gross Floor Area (maximum)	90% of first-story gross floor area	90% of first-story gross floor area
Impervious Surface Coverage (maximum including structures)*	60% of lot area	70% of lot area
Perimeter Landscaping (minimum)	10 ft. wide on all sides; none required for lots 20,000 sq. ft. or larger	10 ft. wide on all sides; none required for lots 15,000 sq. ft. or larger

* The remainder of the lot shall be comprised of pervious surface coverage, including landscaped or natural vegetative areas, pervious paver systems, water features, swimming pools, or gardens. Impervious surfaces shall not comprise more than 45% of the front yard.

*Diagram 134 (4) — One-story single-unit dwelling example*

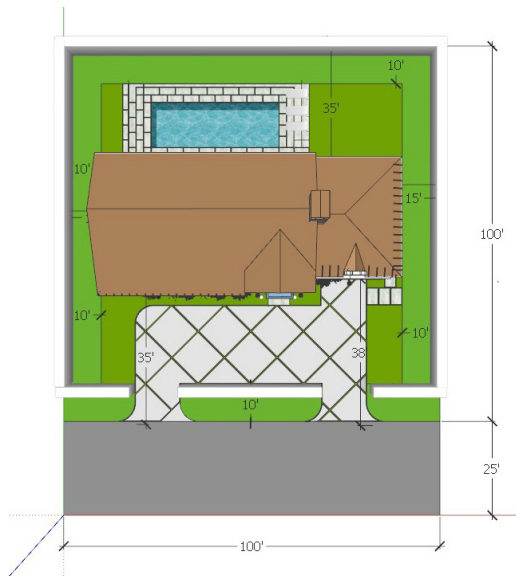


Diagram 134 (5) — Two-story single-unit dwelling example

Sec. 134-24 Courtyard Residences.

The purpose of the following courtyard residence regulations is to promote and incentivize courtyard residences, which are an appropriate built form for the Town's tropical climate.

- (a) For a one-story courtyard residence, all applicable minimum setback requirements may be reduced by up to five feet (5').
- (b) For a one-story courtyard residence, the maximum building footprint may be increased by up to ten percent (10%).
- (c) The area of a courtyard shall not count toward the maximum building footprint.



Diagram 134 (6) — Courtyard residences - For illustration purposes only

Sec. 134-25 Variation of Roof Height.

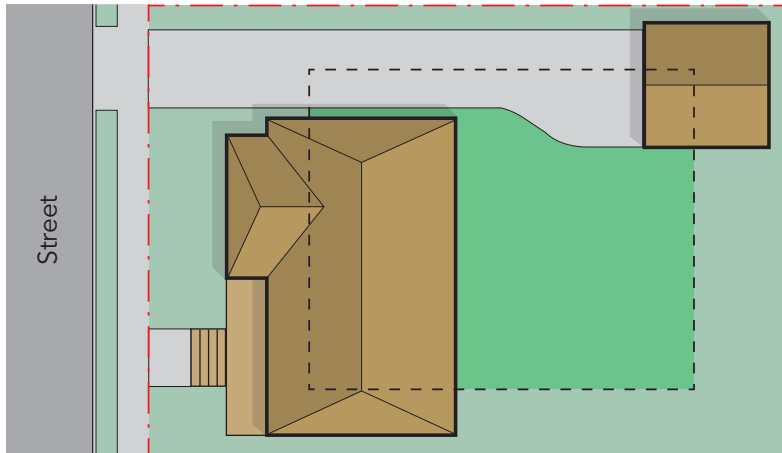
To encourage varied roof heights for visual interest, shade, and aesthetic appeal, for all new construction and additions in the R-B District, the maximum height of the roof of a structure shall

be designed as follows:

- (a) At least thirty percent (30%) of the height of the ridgeline or parapet wall of a roof shall be a minimum of one foot (1') above or below the ridgeline or parapet wall of the remainder of the roof.
- (b) For structures with a combination of both sloped and flat roofs, including occupiable rooftop spaces, the difference in maximum height between the ridgeline of a sloped roof and the top of a parapet wall or railing shall be at least three feet (3').

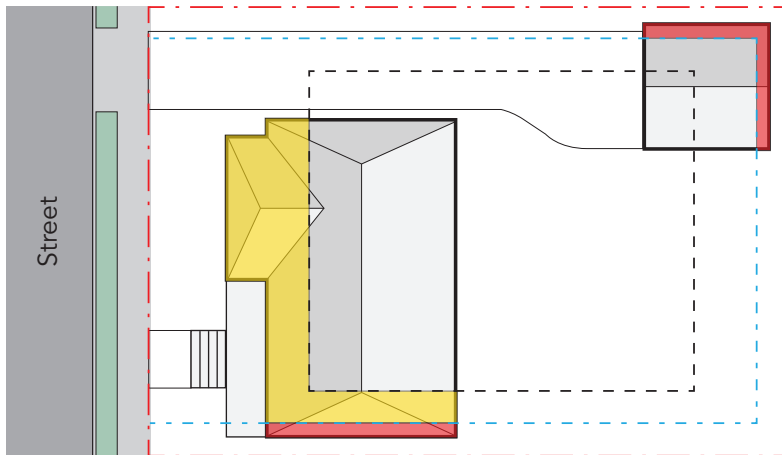
Sec. 134-26 Sea Streets Exception.

- (a) In order to protect the unique early twentieth-century residential character of the Sea Streets, partial or complete demolition and reconstruction of a single-unit dwelling and/or accessory structure on a lot seventy-five feet (75') or less in width is exempt from the development standards set forth herein if redeveloped substantially on the same footprint as existed prior to demolition provided the following conditions are satisfied:
 - (1) The proposed single-unit dwelling and/or accessory structure are of an architectural style consistent with the architecture of the single-unit dwellings within the R-B district on both sides of the subject street, between both intersecting streets, where the dwelling is situated, as determined by the Architectural Commission.
 - (2) Where the existing footprint of any principal or accessory structures is located within five feet (5') of a side or rear lot line, the replacement footprint shall not be located a minimum of five feet (5') from such lot line, and the principal structure shall be located a minimum of ten feet (10') from any neighboring principal structure.
 - (3) The proposed exterior wall height and maximum height of any principal or accessory structures are no higher than the respective structures being demolished and replaced.
 - (4) Any square footage added to the proposed structures shall meet all applicable lot, yard, and bulk zoning requirements and no variances may be requested or granted for any enlargements which add floor area in excess of the gross floor area that existed prior to demolition.




Existing Condition.


This example shows a lot within the Sea Streets containing a structure constructed prior to the current zoning code. The lot is less than 75 feet (75') in width, and portions of the structure are located within a required yard setback.

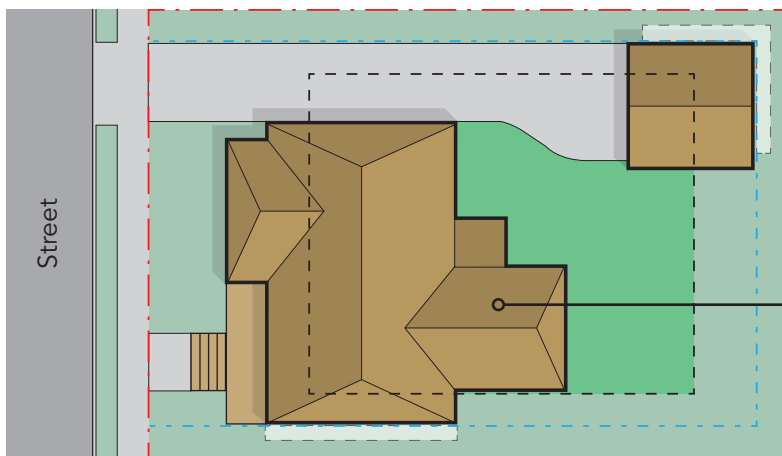


Nonconformities.

The provisions of Section 134-6(b) allow for the new structure to be reconstructed within the footprint of the existing structure; however, portions of the structure within five feet (5') of the lot line must be relocated.


 Portions of structure to remain located within required yard setback.

 Portions of structure to be removed within five feet (5') of lot line.



New Development.

The new development is located largely within the footprint of the existing structure. Any new floor area added to the structure must comply with the zoning standards of Section 134-6(a).

 Enlarged portion of the structure footprint.

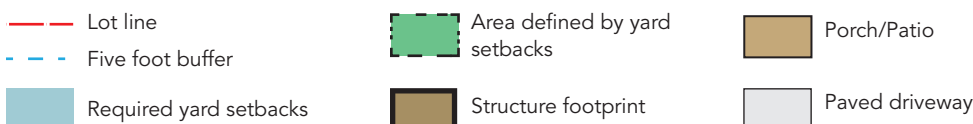


Diagram 134 (7) — Diagram illustrating provisions of Section 134-25(b)

Sec. 134-27 R-C District Lot and Development Standards.

The following lot and development standards shall apply to the R-C District as indicated:

- (a) The following lot and development standards apply to all single-unit detached dwellings in the R-C district:

Table 134-27 (i) — Single-Unit Detached Dwelling Lot Standards.	
Standard	Numerical Standards
Lot Area (minimum)	10,000 sq. ft.
Lot Width (minimum)	75 ft.
Lot Depth (minimum)	100 ft.

Table 134-27 (ii) — Single-Unit Detached Dwelling Development Standards.	
Standard	Numerical Standards
Front Yard Setback (minimum)	25 ft.
Side Yard Setback (minimum)	10 ft. each side
Rear Yard Setback (minimum)	15 ft.
Exterior Structure Wall Height (maximum)	23 ½ ft.
Structure Height (maximum)	31 ½ ft.; 2 stories
Impervious Surface Coverage (maximum)*	30%
Perimeter Landscaping (minimum)	10 ft. wide on all sides; none required for lots 20,000 sq. ft. or larger

* The remainder of the lot shall be comprised of pervious surface coverage, including landscaped or natural vegetative areas, pervious paver systems, water features, swimming pools, or gardens. Impervious surfaces shall not comprise more than 45% of the front yard.

- (b) The following lot and development standards apply to all two-unit attached dwellings in the R-C district:

Table 134-27 (iii) — Two-Unit Attached Dwelling Lot Standards.	
Standard	Numerical Standards
Lot Area (minimum)	13,333 sq. ft.
Lot Width (minimum)	75 ft.
Lot Depth (minimum)	100 ft.

Table 134-27 (iv) — Two-Unit Attached Dwelling Development Standards.

Standard	Numerical Standards
Front Yard Setback (minimum)	25 ft. if garage doors face a street, at least 40% of the entire structure facing said street shall be set back a minimum of 45 ft. from the front lot line
Side Yard Setback (minimum)	10 ft. for one-story portion; 15 ft. for two-story portion
Rear Yard Setback (minimum)	15 ft.
Exterior Structure Wall Height (maximum)	23 ½ ft.
Structure Height (maximum)	31 ½ ft.; 2 stories
Impervious Surface Coverage (maximum)*	30%

* The remainder of the lot shall be comprised of pervious surface coverage, including landscaped or natural vegetative areas, pervious paver systems, water features, swimming pools, or gardens. Impervious surfaces shall not comprise more than 45% of the front yard.

(c) The following lot and development standards apply to all townhouses in the R-C district:

Table 134-27 (v) — Townhouse Lot Standards.

Standard	Numerical Standards
Lot Area (minimum)	20,000 sq.ft.
Lot Width (minimum)	150 ft.
Lot Depth (minimum)	100 ft.

* The remainder of the lot shall be comprised of pervious surface coverage, including landscaped or natural vegetative areas, pervious paver systems, water features, swimming pools, or gardens. Impervious surfaces shall not comprise more than 45% of the front yard.

(d) Townhouse Group Development Standards.

- (1)** No less than three townhouses shall be located within a structure group, and no interconnection or overlapping between individual dwelling units shall be permitted.
- (2)** No part of any exterior wall of any structure group shall be nearer than twenty feet (20') to any part of any exterior wall of any other structure group.
- (3)** No portion of a one-story portion of any structure shall be closer than ten feet (10') and no portion of any two-story portion of any structure shall be closer than fifteen feet (15') from any side lot line of the overall lot.
- (4)** The maximum structure dimension of any structure group shall not exceed one hundred fifty feet (150').
- (5)** Each structure group shall have a twenty-foot (20') clear access to the interior of the block with at least one such access for every five (5) townhouses.

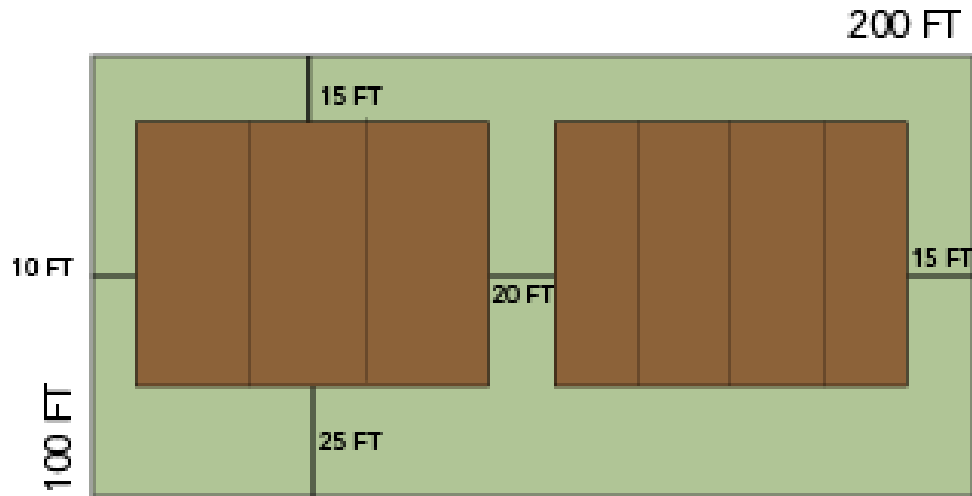


Diagram 134 (8) — Townhouse group development standards

R-D(1) & R-D(2)

The Multi-Unit Residential Districts

Sec. 134-28 Purpose.

The purpose of the Multi-Unit Residential Districts is to provide for low-maintenance horizontal and vertical attached residential uses of a moderate scale and population density compatible with the Town's existing multi-unit residential buildings and complexes.

Sec. 134-29 Uses.

(a) The principal uses allowed in the Multi-Unit Residential Districts are:

- i. Multi-unit dwellings;
- ii. Townhouses; and
- iii. Group homes.

(b) In multi-unit dwellings containing over twenty-five (25) units in the R-D(2) District, incidental services that primarily serve the residents of the structure in which they are located, including sundry shops, delicatessens and cafes, personal service shops, and similar uses shall be allowed subject to the following conditions:

- i. Not more than five percent (5%) of the total floor area of the multi-unit dwelling shall be used for any such incidental services; and
- ii. All such incidental services shall be situated within the interior of the multi-unit dwelling so that no part thereof shall be directly accessible to any public right-of-way, no sign or window display shall be discernible from any public right-of-way, and no exterior or external advertising shall be permitted.

(c) The use of roofs for recreational activities and resident amenities is prohibited; provided, however, that such prohibition shall not include the use of the roof of a parking structure that is not higher than twenty feet (20') above the average grade.

(d) Essential services may be allowed if approved by special exception.

(e) For accessory uses, see Sec. 134-16 above.

(f) More than one principal structure is permitted on a lot.

Sec. 134-30 Lot and Development Standards.

(a) The following lot standards shall apply to the Multi-Unit Residential Districts as indicated:

Table 134-30 (i) — Lot Standards.		
Standard	R-D(1)	R-D(2)
Lot Area (minimum)	40,000 sq. ft.	20,000 sq. ft.

Table 134-30 (i) — Lot Standards.

Standard	R-D(1)	R-D(2)
Lot Width (minimum)	150 ft.	150 ft.
Lot Depth (minimum)	200 ft.	100 ft.

Table 134-30 (ii) — Development Standards.

Standard	R-D(1)	R-D(2)
Front Yard Setback (minimum)	25 ft., or the height of the structure, whichever is greater	25 ft.
Side Yard Setback (minimum)	30 ft., or the height of the structure, whichever is greater	For abutting structures: None Required. For one-story portions of end unit: 10 ft. For two-story portions of end unit: 15 ft.
Rear Yard Setback (minimum)	30 ft., or the height of the structure, whichever is greater	15 ft.
Exterior Structure Wall Height (maximum)	25 ft. for two stories; 35 ft. for three stories	25 ft.
Structure Height (maximum)	35 ft. for two stories; 45 ft. for three stories	35 ft.; two stories
Impervious Surface Coverage (maximum)*	55%	65%

* The remainder of the lot shall be comprised of pervious surface coverage, including landscaped or natural vegetative areas, pervious paver systems, water features, swimming pools, or gardens. Impervious surfaces shall not comprise more than 45% of the front yard.

- (b)** For townhouse lot and development standards, all townhouse lot development standards applicable to R-C District shall apply.
- (c)** Shared access among adjacent lots is encouraged to limit the number of curb cuts on Highway A1A. To that end, if shared access is provided among adjacent lots so that at least two (2) curb cuts that would otherwise be necessary without shared access are eliminated, then the maximum impervious surface coverage on both lots may be increased by up to ten percent (10%).

THE PALM BEACH COMMERCIAL Districts



Sec. 134-31 Introduction to the Commercial Districts.

- (a) The following districts are established to preserve and promote desired commercial uses and development patterns in the Town's four distinct commercial areas:

Table 134-31 (iii) — Commercial Districts.

District Name	Symbol
Royal Poinciana	C-RP
Royal Palm Gateway	C-PG
Town Commercial	C-TC
Worth Avenue	C-WA

- (b) The intent of the commercial districts is as follows:

- (1) The C-RP Royal Poinciana District is intended to preserve and enhance an area of unique character oriented toward a combination of office, professional, and retail uses to be developed as a common development scheme around Royal Poinciana Way.
- (2) The C-PG - Royal Palm Gateway District is intended to provide locations for administrative, professional business, and institutional offices which are adequate for the Town's needs and convenient for use by the Town's inhabitants along Royal Palm Way.
- (3) The C-TC Town Commercial District is intended to create, preserve, and enhance areas of attractive, small-scale, retail, personal and professional/business services to be developed either as a unit or on individual lots, providing for the frequently recurring needs of the Town's inhabitants.

- (4) The C-WA Worth Avenue District is intended to protect and enhance of the quality and character of the Worth Avenue shopping district, one of the most beautiful and prestigious shopping districts in the world.

Sec. 134-32 Generally Applicable Regulations.

In addition to the development standards set forth herein, additional generally applicable regulations, including, but not limited to, those for off-street parking and loading, signage, landscaping, and equipment, may also apply as set forth in Article III below.

Sec. 134-33 Accessory Uses and Structures in Commercial Districts.

- (a) Accessory uses determined by the Director to be customarily incidental to a principal use shall be permitted.
- (b) Accessory structures shall comply with the height, setback, and location provisions of section 134-14; however, accessory structures in the C-RP and C-TC Districts shall comply with front and side yard requirements for the principal structure to which they are accessory as established by these commercial district regulations, and in no event shall be closer than ten feet (10') to a rear lot line.

Sec. 134-34 Uses by District.

The following uses are permitted by right or by special exception in the commercial districts as indicated:

<div><div></div> = Permitted Use</div> <div><div></div> = Special Exception</div>		Table 134-34 (i) — Commercial Uses.			
Uses	C-PG	C-RP	C-TC	C-WA	
Art Studio		<div></div>	<div></div>		
Banking and Finance	<div></div>	<div></div>	<div></div>	<div></div>	
Dining, Full Service	<div></div>	<div></div>	<div></div>	<div></div>	
Dining, Limited Service		<div></div>	<div></div>	<div></div>	
Club Activities		<div></div>	<div></div>	<div></div>	
Hotel		<div></div>	<div></div>	<div></div>	
House of Worship		<div></div>	<div></div>		
Professional Offices/Services	<div></div>	<div></div>	<div></div>	<div></div>	
Pharmacy		<div></div>	<div></div>		
Multi-Unit Dwellings Above Commercial		<div></div>	<div></div>	<div></div>	
Personal Services		<div></div>	<div></div>	<div></div>	
Nightclub		<div></div>	<div></div>		
Retail		<div></div>	<div></div>	<div></div>	
School	<div></div>	<div></div>	<div></div>		

Sec. 134-35 Commercial Districts Development Standards.

The following table sets forth the development standards within each commercial district:

Table 134-35 (ii) — Commercial Districts Development Standards.				
Standard	C-PG	C-RP	C-TC	C-WA
Lot Area (Minimum)	4,000 sq. ft	4,000 sq ft	4,000 sq. ft. ¹	4,000 sq. ft.
Lot Width (Minimum)	40 ft	40 ft	40 ft	40 ft
Lot Depth (Minimum)	100 ft	100 ft	100 ft	100 ft
Density (Maximum)	6 du/acre	None required; See site plan review requirements	6 du/acre	10 du/acre
Front Yard Setback (Minimum)	10 ft	None required	None required	None required
Side Yard Setback (Minimum)	None required	None required; If provided, must be 5 ft	10 ft	Side Yards Not Permitted
Rear Yard Setback (Minimum)	10 ft	10 ft	10 ft ¹	10 ft
Height ² (Maximum)	16 ft for one-story structure	16 ft for one-story structure ³	16 ft for one-story structure	16 ft for one-story structure
	26 ft for two-story structure	26 ft for two-story structure ³	26 ft for two-story structure	26 ft for two-story structure
Lot Coverage	No Minimum Required	15% minimum for one-story	75% Minimum	No Minimum Required
	60% Maximum	25% minimum for two-story structures	100% Maximum	40% Maximum
Structure Length (Maximum)	150 ft	150 ft	150 ft	150 ft
Gross Floor Area (Maximum)	30,000 sq ft	No requirements	No Requirement	15,000 sq. ft.

¹ Rear yard requirement shall be increased by one foot (1') for each two feet (2') of structure height above fifteen feet (15').

² Overall structure height shall be maximum height plus an additional five feet (5') for hip and gable roofs.

³ In the C-RP District, overall height for structures without hip or gable roofs shall be maximum height plus an additional ten feet (10').

Sec. 134-36 Additional Development Standards.

- (a) **Mixed-Uses.** The following regulations shall apply to all structures within a commercial district that contain a residential use:

 - (1) Residential uses, except for residential lobbies, entrances, mail rooms, enclosed parking, or other spaces supporting the residential use, shall not be permitted on the ground floor of a structure;
 - (2) Ground floor residential uses, except for areas used for parking, uses shall not be more than twenty-five percent (25%) of the floor area of the structure or one thousand (1,000) square feet, whichever is less.
 - (3) Where required residential off-street parking is provided, the following rules shall apply:

 - a. Residential parking shall not be located within thirty feet (30') of the primary commercial use(s);
 - b. Access to residential parking shall only be provided from the side or rear of the structure; and
 - c. Residential parking shall be enclosed within a primary or accessory structure.
- (b) **Towers.** In the commercial districts, a maximum of two (2) towers as architectural features may be constructed as integral parts of the structure provided that:

 - (1) No tower exceeds the allowable overall height by more than ten feet (10');
 - (2) Such tower is set back an additional five feet (5') on the front, rear, side, and street side yards;
 - (3) Such tower has no habitable floor area; and
 - (4) The gross floor area of such tower shall not exceed two percent (2%) of the gross floor area of the principal structure.
- (c) **Pedestrian walkways.** All structures shall be set back so as to provide at least a ten-foot-wide (10') pedestrian walkway between the street edge and the structure, exclusive of beautification strips, not more than five feet (5') of which may be on the Town street right-of-way, where appropriate, and additionally, to provide for the minimum front yard setback, which shall be measured from the inside (lot side) of the required pedestrian walkway. Where no front yard structure setback is approved or required, two feet (2') of the required ten-foot-wide (10') pedestrian walkway, adjacent to the inside (lot side) of the walkway, may be landscaped by placement of potted plants or removable planters. Such potted plants or planters shall include xeriscape landscaping whenever possible.

Sec. 134-37 Permitted Architectural Features in Commercial Districts.

- (a) Cornices, solid canopies, or architectural features may extend forty-eight inches (48") over the sidewalk or required yard area, provided they shall have nine feet (9') of vertical clearance above the sidewalk or yard.
- (b) Marquees or canvas-covered fireproof canopies, no wider than entranceways, may be constructed over main entrances to hotels, auditoriums, theaters, houses of worship, and

other such places of public assembly and may extend to the face of the curb, provided that no support shall be nearer than eighteen inches (18") to the face of the curb and the installation shall have a minimum of nine feet (9') of vertical clearance above the sidewalk.

- (c)** No projections shall be allowed in the required rear yard except open-type fire escapes that shall provide a counter-balanced bottom section with nine feet (9') vertical clearance when raised.
- (d)** One (1) open, one-story pergola may extend five feet (5') into a setback provided said structure does not exceed a height of nine feet (9') and the supporting beams do not obstruct a sidewalk or walkway.
- (e)** One (1) arbor of up to fifteen (15) square feet in area shall be allowed in a required setback provided the arbor does not exceed a height of eight feet (8') and does not block a sidewalk or walkway.
- (f)** The ground floor of a structure facing any street or other public right-of-way shall be at least fifty percent (50%) transparent with glazing that shall not be more than ten percent (10%) tinted.
- (g)** Construction of a new arcade or colonnade on a new or existing structure is permitted in the commercial districts under the following circumstances:
 - (1)** The arcade or colonnade is located on the street side of the structure;
 - (2)** The arcade or colonnade is not less than twelve feet (12') and not more than sixteen feet (16') in height above the sidewalk over which it is situated;
 - (3)** The arcade or colonnade is adjacent to an existing arcade or colonnade on one or both sides of the structure, or is directly across a street from an existing arcade or colonnade on the same side of the street;
 - (4)** No habitable space is located directly above the arcade or colonnade;
 - (5)** The arcade or colonnade is made of the same material and is of the same architectural style as the façade of the structure;
 - (6)** No signage shall be allowed on the arcade or the colonnade;
 - (7)** The arcade or colonnade shall remain open to the public at all times;
 - (8)** The arcade or colonnade shall not contain screens or windows and shall remain completely open to the outside at all times except for supporting columns;
 - (9)** The interior of the arcade or colonnade shall be illuminated with ceiling lighting at all times for safety;
 - (10)** The lot owner shall enter into a license agreement with the Town for any use of or connection to the public right-of-way, such agreement being acceptable to the Director and the Town attorney;
 - (11)** The arcade or colonnade shall be maintained in good order and broom clean condition at all times.

Sec. 134-38 Special Considerations and Exceptions - C-WA Worth Avenue District.

The purpose and intent of establishing special considerations and exceptions for lots fronting on Worth Avenue is for the enhancement of the quality, character, and image of the Avenue and to provide an aesthetic linkage between modern and historical development patterns that reflect the Avenue's unique history and important present and future of commercial uses in the Town.

- (a)** All new construction, additions, alterations, and changes to existing structures on lots on Worth Avenue are subject to site plan review and review by the Landmarks Commission or Architectural Commission, as applicable, for compliance with the Worth Avenue Design Guidelines, which are incorporated by reference in this Code as if fully rewritten herein.
- (b)** Town Council may allow for lot-specific exceptions to the lot and development standards in the C-WA Worth Avenue District in the following instances and the following extent:

 - (1)** Commercial development, redevelopment, restoration or renovation providing an enhanced level of amenities and features shall be eligible for an increase in maximum building coverage as follows:

 - a.** For new two-story structures: maximum first story lot coverage, 50%; second story maximum lot coverage, 35%.
 - (2)** Mixed-use commercial and residential development, redevelopment, restoration or renovation providing commercial uses on the ground floor and residential uses above, and providing an enhanced level of amenities and features shall be eligible for an increase in maximum lot coverage and allowable residential units as follows:

 - a.** For existing structures, second story maximum lot coverage, 35% and a maximum of one (1) residence per each fifty feet (50') of frontage on Worth Avenue.
 - b.** For new two-story structures: maximum first story lot coverage, fifty percent (50%); maximum second story lot coverage, thirty-five percent (35%); and a maximum one (1) residence per each fifty feet (50') of frontage on Worth Avenue.
 - (3)** Amenities and features that contribute to qualification for a special allowance are as follows:

 - a.** Public arcades, vias, courtyards, useful open space and interconnection.
 - b.** Private open spaces, patios, terraces, balconies, and loggias.
 - c.** Mixed-use development with upper-story residential.
 - d.** Restoration of original facade.
 - e.** Appropriate style change.
 - f.** Varied roof heights, towers, and chimneys.
 - g.** Any other significant amenities or features determined to be appropriate for review by the Landmarks Preservation Commission or Architectural Commission., as applicable

- (c)** In order to encourage increased open space, landscaped open space, reduced density and lot coverage, enhanced amenities and features, and/or architectural detail, the Town Council may at its discretion, upon review of an application and public hearing thereon, allow for modification of any of the development standards in the C-WA Worth Avenue district upon a finding that the proposed modification for a contemplated exception is in the public interest, and that careful attention is given to architectural detail. In making their determination of appropriateness of the proposed modification, the Town Council shall consider the review and recommendation of the Landmarks Preservation Commission or Architectural Commission, as applicable.

CI

The Cultural Institutional District

Sec. 134-39 Purpose and Intent.

The purpose of the CI Cultural Institution district is to provide for uses such as not-for-profit cultural and art institutions, in a campus setting at a scale and intensity intended to primarily serve the needs of Town persons. A campus shall be defined as the total of all of the lot, or lots included in a unity of title approved by the Town, that are utilized for such purpose, owned and operated by a single not-for-profit cultural and arts institution. A campus owned by a single not-for-profit cultural and arts institution, or subject to an approved unity of title, shall be considered one (1) lot for the purposes of administering the requirements of this division and thus applied to the entire campus and not on an individual lot-by-lot basis.

Sec. 134-40 Permitted Uses.

Not-for-profit cultural and arts institutions are permitted in the CI Cultural Institutional district. For purposes of these CI District regulations, a "not-for-profit cultural and arts institution" means any corporation, organization, association, or institution that:

- (a) Provides programs or activities in areas directly concerned with the arts or cultural heritage;
- (b) Is not-for-profit and owned and operated by a single cultural and arts institution that has a tax-exempt status with the Internal Revenue Service, and whose net earnings may not lawfully inure to the benefit of any private shareholder, member, or individual;
- (c) May include one or more museums, art galleries, performing art centers, libraries, and/or botanical and sculpture gardens; and
- (d) May include one or more accessory uses that are customarily incidental to and directly supportive of such uses, including cooking facilities, lecture halls, classrooms, storage facilities, offices, off-street parking and loading, and not more than a total of three (3) residential units for purposes of no-charge housing to employees, short-term guests, and artists in residence, all of which shall be subject to the conditions and limitations set forth herein, and shall be limited to a maximum of three (3) bedrooms and two thousand three hundred (2,300) square feet per unit.

Sec. 134-41 Special Exception Uses.

The following special exception uses require a site plan review:

- (a) Outdoor promotional events. See additional conditions and criteria herein.
- (b) Accessory cafe. Not more than one accessory cafe that shall not be open to or advertised as being open to the general public and shall serve only patrons of the not-for-profit cultural and arts institution. The accessory cafe shall offer limited menus that reflect the cafe's purpose of supporting the patrons of the not-for-profit cultural and arts institution.

At the discretion of the town council, the accessory cafe may be subject to a declaration of use agreement that addresses the number of seats, hours of operation, and any other conditions of approval imposed by the Town Council.

- (c) Three-story structure. Only one (1) three-story structure is permitted per campus. Additions to existing three-story structures are permitted provided the addition complies with the requirements of this Code.
- (d) Structure length greater than one hundred fifty feet (150'). Except for any structures existing on a campus as of the effective date of this ordinance, any new structures greater than one hundred fifty feet (150') in length shall require Town Council approval for a special exception.

Sec. 134-42 Lot and Development Standards.

In the CI Cultural Institution district, the schedule of lot, yard, and area requirements is as provided in this section, and for the purposes of this section, "adjoin" shall be defined as having a common lot line or being separated only by a public right-of-way.

Table 134-42 (i) — Lot Standards.

Standard	Numerical Standards
Campus Area (minimum)	304,920 sq. ft.
Campus Width (minimum)	300 ft.
Campus Depth (minimum)	300 ft.

Table 134-42 (ii) — Development Standards.

Standard	Numerical Standards
Front Yard Setback (minimum)	When front yard adjoins a commercial district, then no front yard setback required; when front yard adjoins two or more intersection street lines, then no minimum front yard setback is required; when front yard adjoins a residential district, the minimum front yard setback shall be twenty-five feet (25') for a one-story structure and thirty (30) feet for a two-story structure, and for structures exceeding two (2) stories in height, then the front yard setback shall be increased by one foot (1') for each one foot (1') of structure height exceeding twenty-two feet (22') in height and in no case shall the front yard setback be less than thirty feet (30').
Side Yard Setback (minimum)	When side yard adjoins a commercial district, then no minimum side yard setback is required; when side yard adjoins a residential district, then the minimum side yard setback for one-story and two-story structures shall be twenty-five feet (25'), and for structures exceeding two-stories or twenty-two feet (22') in height the minimum side yard setback shall be increased by one foot (1') for each one foot (1') of structure height exceeding twenty-two feet (22') in height.

Table 134-42 (ii) — Development Standards.	
Standard	Numerical Standards
Rear Yard Setback (minimum)	When rear yard adjoins a commercial district, then the minimum rear yard setback shall be ten feet (10'); when rear yard adjoins a residential district, then the minimum side yard setback for one-story and two-story structures shall be twenty feet (20') and for two-story structures thirty feet (30'), and for structures exceeding two-stories or twenty-two feet (22') in height the minimum side yard setback shall be increased by one foot (1') for each one foot (1') of structure height exceeding twenty-two feet (22') in height.
Structure Height (maximum)*	15 ft. for one-story structures; 30 ft. for two-story structures
Lot Coverage (maximum)	30%
Landscaped Open Space (minimum)	50% in total

- (a) The maximum structure height allowed by right is two (2) stories, with provision for a special exception for three (3) stories with a maximum structure height of forty-five feet (45').
- (b) No three-story structures, or portion thereof, shall be permitted within one hundred fifty feet (150') of a single-unit dwelling or residential district. Such distance shall be measured from the lot line on which the single-unit dwelling or residential district is located to the subject structure.

Sec. 134-43 Additional Standards.

- (a) No residential density is permitted other than the residential dwelling unit(s) permitted above. Residential dwelling units shall be limited to a maximum of three (3) units within the campus, and shall be limited to a maximum of three (3) bedrooms and two thousand three hundred (2,300) square feet per unit.
- (b) Structures that exceed one hundred fifty feet (150') in length shall provide a planar break which consists of recesses or projections in the structure. The intent is to provide facade articulation that breaks up the structure. Planar breaks shall be a minimum of two feet (2') of recessed or projecting structure area, or as determined by the Landmarks Preservation Commission or the Architectural Commission, as applicable.
- (c) Sub-basements are exempt from the maximum structure length requirement. Individual structure elements extending above ground from a single sub-basement shall each be considered as a separate structure for the purpose of calculating structure length.
- (d) The minimum landscaped open space for a campus shall be twenty-five percent (25%). Not less than thirty-five percent (35%) of the required front yard must be landscaped open space unless a zero front yard setback is provided, then there shall be no required front yard landscaped open space.
- (e) For one-story structures, the maximum gross floor area is twenty thousand (20,000) square feet. For two-story and three-story structures, the maximum gross floor area is fifty thousand (50,000) square feet.

- (f) Notwithstanding anything to the contrary in this Code, the following statues or sculptures shall be permitted by right if located in the CI Cultural Institution district and shall not require the review and approval by the Landmarks Preservation Commission or the Architectural Commission, as applicable:
 - (1) Statues or sculptures nine feet (9') or less in height, or
 - (2) Statues or sculptures greater than nine feet (9'), but not to exceed 12 feet (12'), and not visible from a public right-of-way.
- (g) Sub-basements shall be exempt from the maximum floor area requirements. Individual structure elements extending above ground from a single sub-basement shall each be considered as a separate structure for the purpose of calculating structure floor area.
- (h) In the CI Cultural Institution district, any structure or structure located at a cultural and arts institution lawfully in existence on the effective date of this division that is made nonconforming by the passage of this section or any applicable amendment thereto, shall be a legal non-conformity and may be continued, except as otherwise provided in Article IV.

Sec. 134-44 Off-Street Parking in the CI Cultural Institution District.

- (a) Where there is a conflict between the parking requirements elsewhere in this Code and this section, the specific requirements of this section shall govern.
- (b) In the CI Cultural Institution district, the following uses within any structure or structure located on a cultural and arts institution campus are exempt from providing any required parking:
 - (1) Accessory cafe.
 - (2) Storage facilities or spaces.
 - (3) Cooking facilities.
 - (4) Residential dwelling unit(s) as permitted above in this section.
 - (5) Structure areas utilized for any back of house operational spaces, such as, but not limited to, green rooms, changing rooms, prop storage areas, wet and dry art work spaces, and any areas associated with the operation of a theater or performing arts facility that do not contain seats or access for patrons.

Sec. 134-45 Signs in the CI Cultural Institution District.

- (a) In the CI Cultural Institution district, any sign located at a cultural and arts institution lawfully in existence on the effective date of this Code that is made nonconforming by the passage of this section or any applicable amendment thereto shall be a legal non-conformity and may be continued except as otherwise provided in Article IV.
- (b) The Town recognizes that different types of cultural and arts institutions require different types of signs, sizes, and styles of signage. The Landmarks Preservation Commission or the Architectural Commission, as applicable, shall approve a master sign plan that specifies all signage by type, size, quantity, material, and placement throughout the cultural and arts

institution campus. Any change to an approved master sign plan or changes to individual signs visible from a public street shall be approved by the Landmarks Preservation Commission or Architectural Commission, as applicable.

- (c)** The master sign plan may include different types of signs, sizes, and styles. The design standards below may be considered, but shall not limit the design and placement of such signage:

 - (1)** Campus identification monument signage.

 - a.** Any monument signage shall display the name of the cultural and arts institution with a maximum lettering height of six inches (6").
 - b.** Monument signs are permitted within the front yard setbacks provided that it does not conflict with the sight triangle requirements of this Code.
 - c.** Maximum height of the monument sign shall be four feet (4') above grade.
 - (2)** Campus identification portal/gateway-mounted signage.

 - a.** One (1) portal/gateway-mounted sign is allowed at main entrances such as driveways, intersecting roads, or other arrival points, identifying the name of the cultural and arts institution with a maximum lettering height of three inches (3").
 - (3)** Structure-mounted structure or venue identification signage.

 - a.** One (1) structure or venue sign is allowed at each publicly accessible entrance to a structure with a maximum lettering height of three and a half inches (3 1/2").
 - (4)** Wayfinding and educational signage.

 - a.** Free-standing or wall mounted signs identifying campus circulation or containing educational information are permitted but shall be limited as follows:

 - i.** A maximum lettering height of three inches (3").
 - ii.** A maximum sign height of four feet (4') above the grade.
 - iii.** A maximum sign width of two feet (2')
 - (5)** Donor signs are permitted but shall be limited (3") as follows:

 - a.** A maximum lettering height of three inches (3").
 - b.** A maximum sign height of two feet (2') above the grade.
 - c.** A maximum dimension of twelve inches by twelve inches (12" x 12").
 - d.** The requirements of this section shall supersede the sign regulations elsewhere in this Code.
 - (6)** The following signs shall be prohibited on a campus:

 - a.** Neon, including neon tubing signs.

- b.** Backlit signs.
- c.** Strobing, blinking, or flashing signs.

C Conservation District

Sec. 134-46 Purpose and Intent.

The purpose of the C Conservation District is to preserve and protect existing undeveloped lands, including the protection of wildlife and ecological habitat and other unique environmental characteristics of the Town's natural lands.

Sec. 134-47 Permitted Uses.

There are no permitted uses in the C Conservation District.

Sec. 134-48 Special Exception Uses.

The special exception uses in the C conservation District are as follows and require site plan review as set forth in Article V below:

- (a) Parks and Recreation;
- (b) Essential Services, excluding wireless telecommunication towers and distribution electrical substations.

Sec. 134-49 Unlawful Alterations.

- (a) It shall be unlawful for any person, organization or governmental entity to use, remove, relocate or plant any landscape material on uplands within the C Conservation district without a permit pursuant to Chapter 66 of the Town of Palm Beach Code of Ordinances.
- (b) This prohibition includes the use of mulch, removal of exotic plant material, and/or the planting of native landscape material.
- (c) It shall be unlawful to make any alterations for the purpose of allowing or promoting the use of conservation land for any public or private purpose other than that allowed by special exception.

B

Beach Area District

Sec. 134-50 Purpose and Intent.

The purpose and intent of the B Beach Area district is to allow the context and environmentally sensitive use of certain lands in the Town lying along the Atlantic Ocean and designated on the zoning map as beach area. The Beach Area is located on the east side of Ocean Boulevard and is adjacent to R-AA, R-A, and R-B Districts. Development within the B Beach Area district is very limited for the protection of the Town and its inhabitants, the natural environment, and the lot owner.

Sec. 134-51 Permitted Uses and Structures.

- (a) There are no permitted principal uses in the B Beach Area District. Although in a separate district from the principal uses, all structures in the Beach Area District are accessory structures and all uses in the Beach Area District are accessory uses.
- (b) No beach house structure or lot in the Beach Area District shall ever be used for any purpose other than private bathing purposes incidental to the ownership thereof, such use to be an accessory to the principal residential structure located directly across the street therefrom or within a radius of one thousand five hundred feet (1,500') and with unity of title thereof, or such use to be an accessory use for an association of lot owners in adjacent districts, and provided, further, that such beach house structure has been approved as a special exception use as set forth herein.
- (c) All uses and structures whether permitted or allowed by special exception shall be subject to site plan review.
- (d) The following are permitted accessory structures and uses in the Beach Area District if associated with a permitted principal use not more than one thousand five hundred feet (1,500') from the subject lot:
 - (1) Swimming pools and associated equipment.
 - (2) Beach and pool cabanas.
 - (3) Private outdoor sporting facilities.
 - (4) Seawalls, dune cross overs, and stairs.
 - (5) Special events as approved by the Town on a case-by-case basis.
- (e) No parking shall be permitted on any lot within the B district.
- (f) Temporary tents shall be permitted in accordance with the dimensional and setback requirements for beach structures in the Beach Area District and the requirements set forth in Chapter 18 of the Town of Palm Beach Code of Ordinances.

Sec. 134-52 Special Exceptions.

- (a) The special exception uses in the Beach Area District are as follows:
 - (1) One (1) beach house structure.
 - (2) Beach concessions related to an abutting hotel use and only for the use of hotel guests, visitors or those persons associated with the hotel, including the sale of sunblock and lotions; food and drink service; rentals of kayaks, canoes, paddle boards, surfboards, and similar non-motorized watercraft rentals.
 - (3) Essential services.

Sec. 134-53 Development Standards and Limitations for Areas of the B Beach Area District Adjacent to the R-B Districts.

- (a) No beach house more than one (1) story or exceeding eight feet (8') in height as measured from the natural grade or crown of the road, whichever is less, to the underside of the roof, plus four feet (4') in height to the highest point of the roof, with maximum dimensions no greater than ten feet by twenty feet (10' x 20') but occupying not more than 20 percent (20%) of the width of the lot shall be constructed on any lot within the Beach Area District, except as provided for by special exception. However, this restriction shall not apply to essential services and/or structures approved by the Town Council, jetties or groins, or other structures for the protection of the beachfront.
- (b) For lots within the Beach Area District having a lot frontage of one hundred twenty-five feet (125') or greater, the maximum size of a beach house may be increased, by a special exception, up to the maximum size set forth in the following table; and, provided further that all other conditions and standards set forth in this this Code are satisfied.

Table 134-53 (i) — Size of Beach Structures.		
	ON LOTS OF 125 BUT LESS THAN 150 FEET IN WIDTH	ON LOTS 150 FEET OR GREATER IN WIDTH
a.	Maximum Size: 350 sq. ft.	Maximum Size: 500 sq. ft.
b.	Neither width nor depth shall exceed 20 ft.	Maximum dimensions: 20 ft. x 25 ft.

- (c) Except to the extent that any of the regulations below are in conflict with state statute or DEP rules and regulations or with requirements of the U.S. Fish and Wildlife Commission, all lots described herein shall comply with the following requirements. In regard to the requirements referenced below, in the event of an allegation of conflict between the Town rules and State statutes and rules regarding the same, the Town shall contact the State and the State will make the final determination in regard to the extent of any conflict.
- (d) No walls, fences, hedges, or other structures or growth shall be erected or grown to a height greater than four feet (4') above the surface of the Ocean Boulevard pavement along which such wall, fence, or growth is maintained.
- (e) Beach houses in excess of two hundred (200) square feet permitted and constructed subsequent to February 8, 1993, shall provide an ocean vista equal to fifty percent (50%) of the lot width. Within the vista area, no structure or vegetation shall exceed thirty inches (30") in height measured above Ocean Boulevard.

- (f) To ensure the ecological integrity of the beach area and enhance the ocean vista, all pest plants recognized as category I and category II invasive exotic species by the Florida Exotic Pest Plant Council shall be removed from the lot as a part of a construction permit or as provided in the Town of Palm Beach Code of Ordinances section 66-311. The lot shall, thereafter, be maintained free of all these species.
- (g) Existing canopy trees exceeding six feet (6') in height should be trimmed to a height of six feet (6') in accordance with DEP rules.
- (h) Palm trees shall have a minimum of four feet (4') of clear trunk at the time of planting.
- (i) All applicants for development in the B district shall provide the Town with a coastal construction control line (CCCL) permit from the DEP where trimming and maintenance of vegetation requires a CCCL permit. When CCCL permitting is required through the DEP, the lot owner shall request the DEP to issue a CCCL permit that will attain the Town ocean vista standards to the maximum extent possible and within the shortest time allowable. Any DEP permit conditions, such as plant height specifications, that may deviate from the Town's ocean vista regulations shall take precedence over the Town requirements. In the event a permit is required, compliance shall be extended to a date five (5) days subsequent to the date upon which the permit is finally acted on by DEP.
- (j) The potential for the trespass of artificial light to marine nesting habitat shall be taken into consideration for any trimming of existing vegetation.

Sec. 134-54 Development Standards and Limitations for Areas of the B Beach Area District Adjacent to Districts Other than the R-B District.

- (a) No structure or beach structure more than one story, but not to exceed sixteen feet (16') in height to the highest point of the roof, as measured from the natural grade or crown of the road, whichever is less, with maximum dimensions no greater than twenty feet by twenty-five feet (20' x 25') shall be constructed within the B district except as provided for by special exception.
- (b) This restriction shall not be deemed to apply to essential services and/or structures approved by the Town Council, jetties or groins or other structures for the protection of the beachfront.
- (c) For lots in the B district having a lot frontage in excess of two times (2x) the required minimum, the maximum size of a beach house may be increased up to a maximum of two thousand (2,000) square feet, provided that:
 - (1) The maximum width of the structure along the frontage of Ocean Boulevard shall not exceed forty-five feet (45').
 - (2) The required ocean vista shall exist from the front to rear lot lines equal to seventy-five percent (75%) of the lot width; and
 - (3) The beach house structure shall be set back not less than thirty-five feet (35') from the west lot line.
- (d) Except to the extent that any of the regulations below are in conflict with state statute or DEP rules and regulations or with requirements of the U.S. Fish and Wildlife Commission,

all lots described herein shall comply with the following requirements. In regard to the requirements referenced below, in the event of an allegation of conflict between the Town rules and the state statute and state rules regarding same, the Town shall contact the State and the State will make the final determination in regard to the extent of any conflict.

- (e) No walls, fences, hedges or other structures or growth shall be erected or grown eastwardly of Ocean Boulevard to a height greater than four feet (4') above the surface of the Ocean Boulevard pavement along which such wall, fence or growth is maintained.
- (f) Beach houses in excess of two hundred (200) square feet permitted and constructed subsequent to February 8, 1993, shall provide an ocean vista equal to fifty percent (50%) of the lot width. Within the vista area, no structure or vegetation shall exceed thirty inches (30") in height measured above Ocean Boulevard.
- (g) To ensure the ecological integrity of the beach area and enhance the ocean vista, all pest plants recognized as category I and category II invasive exotic species by the Florida Exotic Pest Plant Council shall be removed from the lot as a part of a construction permit or as otherwise provided in the Town of Palm Beach Code of Ordinances. The lot shall, thereafter, be maintained free of all these species.
- (h) The applicant shall provide the Town with a coastal construction control line (CCCL) permit from the DEP where trimming and maintenance of vegetation requires a CCCL permit. When CCCL permitting is required through the DEP, the lot owner shall request the DEP to issue a CCCL permit that will attain the Town ocean vista standards to the maximum extent possible and within the shortest time allowable. Any DEP permit conditions, such as plant height specifications, that may deviate from the Town's ocean vista regulations shall take precedence over the Town requirements. In the event a permit is required, compliance shall be extended to a date five days subsequent to the date upon which the permit is finally acted on by DEP.
- (i) The potential for the trespass of artificial light to marine nesting habitat shall be taken into consideration for any trimming of existing vegetation.

Sec. 134-55 Number of Beach House Structures and Setback.

- (a) Not more than one (1) beach house shall be erected on a lot under single ownership, and only one (1) beach house shall be erected in accordance with the following minimum lot frontage requirements:

Table 134-55 (i) — Minimum Lot Frontage Required.	
Beach Area Lot Adjacent To	Minimum Lot Frontage
R-B District	100 ft.
R-A District	125 ft.
R-AA District	150 ft.
All other districts	150 ft.

- (b) Beach houses shall be set back not less than ten feet (10') from the north lot line and shall be set back not less than ten feet (10') from the south lot line and shall be setback not less

than ten feet (10') from the west lot line. However, these restrictions shall not be deemed to apply to essential services and/or structures approved by the Town Council, jetties or groins, or other structures for the protection of the beachfront.

ARTICLE III: GENERALLY APPLICABLE REGULATIONS



TOWN OF PALM BEACH, FLORIDA

www.townofpalmbeach.com

Parking, Drives & Loading

Sec. 134-56 Purpose and Intent.

The provision and maintenance of adequate off-street parking is important to the vitality of residential and commercial uses and quality of life of the Town's inhabitants. The provision of off-street parking is an important component of any new development or redevelopment project; however, off-street parking should not be the dominant feature of any new development or redevelopment project. Off-street parking should be subordinate to the principal use of a lot and should be in a structure or located on a surface parking area only in the rear yard or the side yard behind the front structure wall.

Sec. 134-57 Applicability; Site Plan Review; Prohibitions; Exemptions.

- (a) All new construction and additions to existing structures requires site plan review and approval under Article V below. All site plans shall provide a plan for access, parking, and ingress and egress to and from any lot in accordance with the standards and requirements set forth herein.
- (b) Except as otherwise provided herein, a use or structure lawfully in existence as of the effective date of this Code, which shall be made nonconforming on the effective date of this Code, may be continued even though off-street parking may not be provided in full compliance herewith, but the degree of nonconformity may not be increased either by reducing the number of parking spaces which are provided or by changing the use or occupancy of an existing structure to a use or occupancy which increases the requirement for off-street parking. See Article IV, generally.
- (c) After providing the required number of off-street parking spaces, such required off-street parking shall continue to be provided unless eligible for shared parking as provided for herein. If for any reason such required off-street parking is not provided at all times in connection with the principal use, such principal use shall be discontinued until such time as the minimum required number of off-street parking spaces is made available.
- (d) Vehicular parking facilities shall not be a principal use and are accessory uses only. As of the Effective Date of this Code, no new standalone vehicular parking facilities shall be permitted.
- (e) A landmarked structure in any commercial district is exempt from providing additional required off-street parking if increased occupancy or use is created by interior structure improvements which create more gross leasable area. If additional off-street parking is so provided, it shall be constructed and maintained in accordance with the provisions herein.

Sec. 134-58 Equivalencies.

- (a) The following floor area equivalencies may be used as a minimum guide in the application of the schedule of off-street parking requirements herein:

- (1) One (1) permanent seat equals six (6) square feet of floor area in seating areas of occupancies requiring seating.
- (2) One (1) moveable seat equals fifteen (15) square feet of floor area in seating areas of occupancy requiring seating.
- (3) The remainder of areas external to actual seating areas shall provide required parking according to the schedule of applicable parking requirements.
- (4) One (1) school student equals twenty (20) square feet of floor area.

Sec. 134-59 Parking - Single-Unit Dwelling; Two-Unit Dwelling; Townhouses.

- (a) For any residential dwelling up to three thousand (3,000) square feet, not fewer than two off-street parking spaces shall be provided in a private garage, whether attached to, within, or detached from the principal structure, or within a carport.
- (b) One additional off-street parking space shall be provided for every additional three thousand (3,000) square feet of gross floor area for any type of residential dwelling.
- (c) For two-unit dwellings and townhouses, a minimum of two (2) off-street parking spaces per dwelling unit, plus one (1) additional off-street parking space for every townhouse block shall be provided.
- (d) All driveways shall be paved or made of finely crushed rock and shall lead to either a private garage or a carport. Front yard parking pads that do not lead directly to either a private garage or a carport are prohibited.
- (e) All driveways shall be a minimum of twenty-two feet (22') in length, and no parking is permitted within the first twenty feet (20') of a driveway as measured from the street edge.
- (f) No circle driveway shall be permitted on any lot less than ten thousand (10,000) square feet in total area unless on a corner lot, and no circle driveway shall have curb cut separations of less than thirty feet (30') at their closest point.
- (g) No circle driveway that does not lead to a driveway that leads to a garage or carport is permitted unless on a corner lot.
- (h) No more than two curb cuts are permitted on a lot unless on a corner lot.
- (i) No public rights-of-way shall be used to satisfy the off-street parking requirements for residential uses.
- (j) On-street parking is prohibited on any unlined street in any residential district, except any unlined street with sidewalks on at least one side of the street and except for any temporary on-street parking for not more than two (2) service vehicles per lot for eight (8) hours or less each day. No such service vehicles shall be allowed to park in any manner that cuts off or inhibits through vehiclr access on the street without advance approval by the Director and not for any period exceeding four (4) hours in a 24-hour period.
- (k) No parking shall be permitted at any time within seventy feet (70') of an intersection or along any blind curve of a street.

- (l) In an R-AA district, one (1) surface parking area is permitted for household employees or other invitees at a rate of one (1) parking space for every two thousand five hundred (2,500) square feet of gross floor area of the principal structure, and any such surface parking area shall be located in the side or front yard only and shall be fully screened from view from the public right-of-way. No shared or off-site parking shall be allowed in any residential district.
- (m) No parking shall be permitted on any double yellow or otherwise lined street in any residential district.
- (n) All driveway entrances on a double yellow line or otherwise lined street shall have at least one (1) convex safety mirror of at least 24 inches (24") in diameter adequately positioned at all times to show traffic on the street.

Sec. 134-60 Parking - Multi-Unit Dwelling.

- (a) All off-street parking for a multi-unit dwelling shall be provided in a garage structure, which may be below grade, partially above grade, or fully above grade in accordance with the regulations for structured parking below.
- (b) For multi-unit dwellings, the minimum number of off-street parking spaces shall be as follows:
 - (1) Three (3) dwelling units: Eight (8) parking spaces
 - (2) Four (4) dwelling units: Eleven (11) parking spaces
 - (3) Five (5) dwelling units: Thirteen (13) parking spaces
 - (4) Six (6) or more dwelling units: Two (2) parking spaces per dwelling unit plus one (1) parking space per five (5) units or portion thereof.

Sec. 134-61 Parking – Commercial Uses.

- (a) Use of parking within the public-right-of-way (i.e. on-street parking) to satisfy any minimum parking requirements for any commercial use may be permitted by the Director upon a written determination that there are adequate public parking facilities within four hundred feet (400') of the furthest point of a lot and such parking is located entirely in a commercial district. The burden of proving adequate public parking facilities shall be on the applicant. Notwithstanding the foregoing, not more than twenty-five percent (25%) of the required off-street parking may be satisfied by parking within the public-right-of-way.
- (b) Publicly owned surface parking areas shall not be used to satisfy any minimum parking requirements.
- (c) The number of off-street parking spaces for the following commercial uses is as follows:
 - (1) Houses of worship, theaters, and auditoriums: One (1) parking space per two (2) permanent seats in the main auditorium and one (1) parking space per five hundred (500) square feet of floor area for all other areas.
 - (2) Private clubs: One (1) parking space per four (4) members.

- (3) Retail, personal services, banking and financial institutions, excluding brokerage and trust companies: One parking space per two hundred (200) sq. ft. of gross leasable area; provided, no off-street parking spaces are required for the first one thousand (1,000) sq. ft. of gross leaseable area.
- (4) Hotels, condo-hotels: One and three quarters (1.75) parking spaces per unit with two (2) or fewer rooms, and two and three quarters (2.75) parking spaces per unit with more than two (2) rooms; plus one-half (0.5) parking space for each person of capacity in all other areas.
- (5) Libraries, museums, and cultural centers: One (1) parking space per five hundred (500) square feet.
- (6) Dining and nightclubs: One (1) parking space for every two (2) seats and one (1) parking space for every two (2) employees.
- (7) Schools:
 - a. Grades 1-6: One (1) per fourteen (14) students
 - b. Grades 7-9: One (1) per nine (9) students
 - c. Grades 10-12: One (1) per three (3) students
- (8) Office, professional service, medical, institutions, and brokerage and trust companies: One (1) parking space per three hundred fifty (350) square feet of gross leaseable area.
- (9) Group home and foster care facilities: One (1) parking space per each four (4) resident occupants, plus one (1) parking space for each employee in the largest work shift, with a minimum of two (2) parking spaces

Sec. 134-62 **Parking Area Dimensional and Construction Standards.**

- (a) **Parking dimensions and maneuverability.** The following maneuverability and dimensional standards shall apply to any off-street parking area:

Table 134-62 (i) — Parking Dimensional Standards.		
Standard		Dimension
Parking Stall (minimum)		9 ft. wide 20 ft. long
Drive Aisle Length (minimum)	90 Degree Parking	25 ft.
	60 Degree Parking	20 ft.
	45 Degree Parking	15 ft.
Turning Radius Length (minimum)		30 ft.
Grade to Parking (maximum)		12%
Driveway Length Across Public Sidewalks/Curbs (maximum)		30 ft.

- (1) Where a parking area includes parking spaces that are perpendicular to a drive aisle (90 degrees), the drive aisle may allow traffic in two directions.
- (2) Where the parking area includes parking spaces that are at an angle to a drive aisle, the drive aisle shall be restricted to one directional traffic.

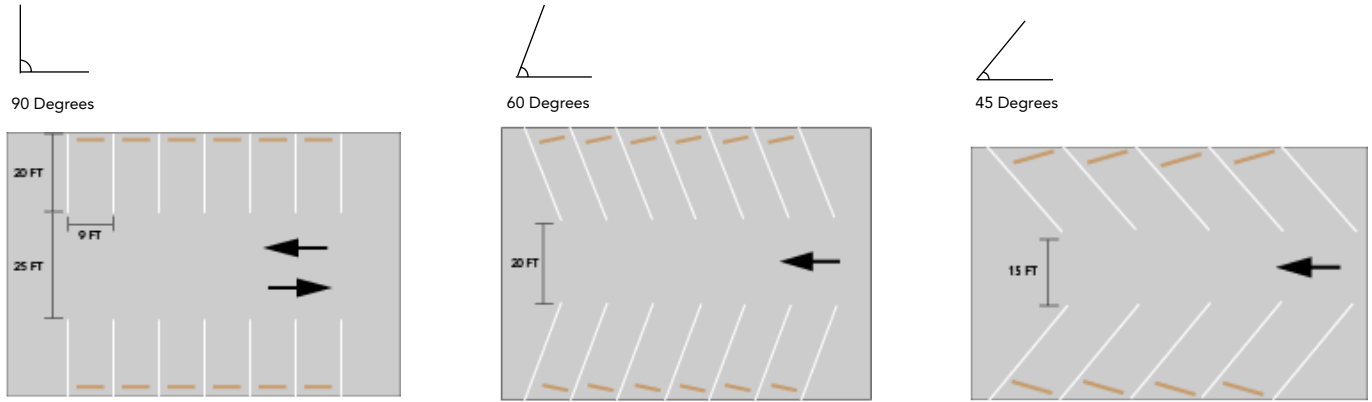


Diagram 134 (9) — Parking dimensions and maneuverability

(b) Requirements for construction.

- (1) All off-street parking areas with the exception of temporary parking for special events such as private parties, shall be surfaced with paving, which may include concrete, asphalt, pervious or impervious pavers, stone, bricks, or other masonry. Pervious pavers are encouraged but not required. Patterned concrete with grass or fine gravel separations are permitted so long as the grass or fine gravel is not more than twenty (20%) of the total area of the parking area.
- (2) All parking areas shall be provided with adequate stormwater drainage to meet paving and drainage specifications approved by the Town Engineer and shall be provided with proper landscaping and irrigation facilities as provided herein.

Sec. 134-63 Off-Site Parking.

All required off-street parking shall be located on the same lot as the principal use or structure, except as follows:

- (a) The Town Council may permit, as a special exception, the establishment of required off-street parking facilities for commercial uses within five hundred feet (500') of the use's primary pedestrian entrance, as measured along the nearest public or permanent private pedestrian walkway when:
 - (1) Practical difficulties prevent the placing of the off-street parking on the same lot as the use(s) for which it is required;
 - (2) The proposed off-site location is not located within any residential district; and

- (3) At the owner's sole cost and expense, the owner of the parking area shall enter into a voidable written agreement with the Town, with enforcement running to the Town and all provisions running with the land, providing that the lot(s) comprising the parking area shall never be sold, conveyed, or otherwise disposed of except in conjunction with the sale of the lot(s) which the parking area serves so long as the off-street parking is required.

Sec. 134-64 Structured Parking Standards.

- (a) A parking structure shall conform to all lot, yard and bulk requirements of the district in which it is located except as follows: where multi-unit dwellings of five (5) or more units includes all required off-street parking, other than required guest spaces, in parking located underground or wholly under the structure, using the Town's minimum base flood elevation as the starting point, the first eight feet (8') of such understory parking shall not count towards allowable structure height, and maximum allowable structure coverage may be increased by five percent (5%).
- (b) Provided the ground level at the lowest point of the public sidewalk abutting the lot or the public street, or the street edge if there is no public sidewalk, is maintained, required off-street parking facilities may be located in a sub-basement under required yards. Roofs of such sub-basements shall be sodded, landscaped and maintained, and there shall be no visible evidence of such underground facility from a public street or sidewalk. No such underground facility shall be closer than five feet (5') from any lot line.
- (c) All nonstructural portions of the exterior elevations, except for vehicular ingress and egress areas, shall, in addition to any required safety provisions, be screened by a sight block of at least fifty percent (50%) opacity for the total areas between deck levels, such sight blockage to be determined by elevation. No solid wall for more than fifty percent (50%) of the distance between deck levels shall be permitted.
- (d) The Town Council may permit as a special exception the establishment of required off-street parking facilities for commercial and multi-unit uses on the roof of a structure. When parking facilities are located on the roof of a structure, a four-foot (4') high balustrade sight block wall shall be provided having at least twenty-five percent (25%) but no more than fifty percent (50%) opacity. The area between the top of the balustrade wall and the underside of any overstructure shall be open, providing at least three feet and six inches (3'6") of vertical clearance. Further, a horizontally installed sight block framework having at least ten percent (10%) but not more than twenty-five percent (25%) solidity shall be installed to cover such rooftop parking. Such horizontal sight block framework shall cover the entire roof deck including ramps and shall be no higher above the roof deck parking spaces than necessary to provide a seven-foot six-inch (7'6") headroom clearance. Use of the rooftop for parking shall count as a structure story for purposes of this Code.
- (e) The parking structure or portions of a structure devoted to parking uses must be sight screened from public view by approved landscaping; provided, however, that enclosed garage areas of a structure shall conform to the same architectural appearance as the remainder of the structure.

- (f) Parking structures detached from the principal structure shall be compatible in appearance to the principal structure and shall comply with all lot, yard, and bulk regulations applicable to the principal structure.

Sec. 134-65 Parking Area Screening and Landscaping.

- (a) In all districts for all permitted or approved special exception uses, required front or street side yards may not be used for off-street parking, but all other yards may be used for such purposes.
- (b) Screening shall also be required along interior lot lines and shall not be less than four feet (4') in height and shall not encroach upon any utility easement line.
- (c) Each parking space shall have an adequate and substantial wheel stop or curb, not less than six inches (6") in height, located at least four feet (4') from a lot line or structure and not less than two feet (2') from required landscaping. Such two-foot (2') setback may be part of the dimensions of the parking space.
- (d) All required interior landscaping not already protected by wheel stops shall be protected by a curb, a minimum of six inches (6") in height, around the perimeter of such landscaped area to prevent damage by vehicles maneuvering within the parking area. Such curbing must be so designed as not to prevent the drainage of water from the paved area into the landscaped area. In addition to the screening requirements in this subsection, the interior of the parking area must have suitable landscaping, including the provision of shade trees, such landscaped area to be not less than ten percent (10%) of the parking and drive aisle area. The total devoted to landscaping, comprising both the screening and the interior landscaping, must be at least 15 percent (15%) of the parking and drive aisle area. A site plan showing the landscaping and the irrigation facilities for the landscaping must be submitted.

Sec. 134-66 Loading Berths for Commercial Uses.

- (a) In any district, in connection with every structure or group of structures or part thereof erected and having a gross floor area of four thousand (4,000) square feet or more, which is to be occupied by uses requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained, on the same lot with such structure, off-street loading or unloading berths in a number not less than the following:

Table 134-66 (i) — Loading Berth Requirements.

Square feet of use	Minimum number of berths
4,000—25,000	1
25,001—40,000	2
40,001—60,000	3
Each additional 25,000	1

- (b) The loading berth required in each instance shall be not less than twelve feet (12') in width, twenty-five feet (25') in length, and fourteen feet (14') in height, and may occupy all or any

part of any required yard; except for a required front yard, provided, however, that the loading berth shall be completely screened from the street or other public right-of-way.

Sec. 134-67 On-Street Parking Permits.

[WE RECOMMEND REMOVING PARKING PERMITS FROM THE ZONING CODE AND PLACING THEM IN A SEPARATE CHAPTER OF THE TOWN OF PALM BEACH CODE OF ORDINANCES. FOR PURPOSES OF CONSISTENCY WITH THE EXISTING CODE, WE HAVE COPIED THEM HERE UNEDITED UNTIL A FINAL DETERMINATION IS MADE.]

For the purpose of this division, the Town Council finds and declares as follows:

- (a) It is in the best interests of the residents of the Town to reduce vehicular congestion on residential streets and to facilitate the efficient movement of traffic by providing for residential parking preference during certain hours of the day within certain areas meeting the criteria set forth in this section;
- (b) Residential permit parking regulation is necessary to promote the health, safety and welfare of the residents of the Town by providing adequate parking spaces adjacent to or close by their places of residence for temporary use;
- (c) It is in the public interest to:
 - (1) Reduce hazardous traffic conditions resulting from the use of streets located within congested residential areas for the parking of vehicles by persons using such residential areas to gain access to other places;
 - (2) Protect those areas from excessive noise;
 - (3) Protect the residents of those areas from unreasonable burdens in gaining access to their residences;
 - (4) Preserve the character of those areas as residential districts;
 - (5) Promote efficiency in the maintenance of these streets in a clean and safe condition;
 - (6) Preserve the value of the lot in those areas;
 - (7) Preserve the safety of children and other pedestrians; andh.Promote traffic safety, clean air and the comfort, health, convenience and welfare of the inhabitants of the Town.
 - (8) Ensure that residential permit parking regulation provides temporary and infrequent use of on-street parking spaces so that adequate parking availability is maintained for all participating residents.

Sec. 134-68 Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) Abuse means the usage of permits (both residential and visitor/service) in a manner inconsistent with the declarations of section 134-2291 to include usage that avoids primary

parking on private lot, when available, on a regular basis and instead utilizes on-street permit parking. Abuse shall also include the excessive and continual usage of multiple permits.

- (b) Commuter vehicle means a motor vehicle parked in a residential area by a person who is not a resident of the designated residential area.
- (c) Controlled parking residential area means a contiguous or nearly contiguous area containing streets or parts thereof primarily abutted by lot that has a specific residential zone designation on the official zoning map of the Town and that is designated for restricted residential parking by the Town manager or his designee, pursuant to criteria and procedures established in this division.
- (d) Calendar year means the period beginning January 1 and ending December 31 of the same year.
- (e) Resident means a person who owns or leases real lot within a residential area and who maintains either a voting residence or bona fide occupancy or both at that address.
- (f) Residential parking permit means a special permit issued under this division for the privilege of parking on a street designated as a controlled parking residential area.

Sec. 134-69 Eligibility and Criteria for Establishing Controlled Parking Residential Areas.

- (a) A residentially zoned area shall be deemed eligible for designation as a controlled parking residential area for residential permit parking if parking therein is impacted by commuter vehicles between 8:00 a.m. and 5:30 p.m. of any day.
- (b) The following objective criteria are established to be used in evaluating the need for restricted parking in a residentially zoned area in accordance with this division. For an area, however big or small, to be eligible for residential permit parking, that area must meet the following criteria:
 - (1) During any period between the hours of 8:00 a.m. and 5:30 p.m., the number of vehicles parked or standing, legally or illegally, on the streets in the area is equal to fifty percent (50%) or more of the legal on-street parking capacity of the area. For purposes of this criterion, a legal parking space shall be twenty feet (20') measured parallel to the curb or pavement edge.
 - (2) During the same period as in subsection (b)(1) of this section, 25 percent or more of the vehicles parking or standing on the streets in the area are not registered in the name of a person residing in the area. For purposes of this criterion, the latest available information from the state department of motor vehicles regarding registration of motor vehicles shall be used.
 - (3) In determining whether an area identified as impacted and eligible for residential permit parking shall be designated as a controlled parking residential area, the following factors shall be considered:
 - a. The local needs with respect to clean air and environment in residential areas.
 - b. The possibility of a reduction in total vehicle miles driven in the Town.

- c. The likelihood of alleviating traffic congestion, illegal parking and related health and safety hazards.
- d. The proximity of public transportation to the residential area.
- d. The desire and need of the residents for residential permit parking.
- e. The need for parking regulation to maintain the residential character of neighborhoods.

Sec. 134-70 Procedure for Determining Controlled Parking Residential Areas.

- (a) In order to determine whether a particular area should be designated as a controlled parking residential area, the Town Council can request or the Town manager may conduct, upon his own initiative or upon a petition of a majority of the households on a proposed residential block addressed to the Town manager, a study to determine if the proposed area meets the criteria set forth in section 134-2294. Following the study, the Town manager shall determine whether to designate the proposed area under consideration as a controlled parking residential area or to remove the designation of a previously established controlled parking residential area. The Town Council may also request the Town manager to designate an area as a controlled parking residential area based upon a study previously conducted, if the criteria set forth in section 134-2294 are met.
- (b) When the Town manager finds the criteria to designate have been met in a controlled parking residential area, he shall cause the regulation to be recorded upon an appropriate map of the Town and retained permanently in the office of the Town clerk. The Town clerk shall also keep an updated residential area parking map, or reasonable facsimile thereof, in an appropriate location on the Town's website. In addition, the Town manager shall cause parking signs to be erected upon public streets in the area, indicating the times, locations and conditions upon which parking shall be by permit only. When an area has been approved, designated and posted as a controlled parking residential area, it shall be unlawful and a violation of this division to park a commuter vehicle in an area restricted to residential permit parking only without having a valid residential parking permit affixed on the left rear bumper of the vehicle, or in the case of a residential visitor parking permit, appropriately displayed within the vehicle.

Sec. 134-71 Issuance of Special Parking Permits Upon Application.

- (a) Following the official designation of a controlled parking residential area, the finance department shall issue appropriate residential parking permits. Upon application a permit shall be issued only to the owner or operator of a motor vehicle who resides in the controlled parking residential area in which he resides.
- (b) The application for a permit shall contain the name of such owner or operator of the motor vehicle; residential address; and the motor vehicle's make, model and registration number. The motor vehicle's registration may, at the discretion of the finance department, be required to be presented at the time of making the application in order to verify the contents thereof. If the vehicle is registered at an address other than the local residence, the applicant shall provide other sufficient proof, acceptable to the finance department, showing residency within the controlled residential parking area. The permit shall be valid for a calendar year, as defined in section 134-2292, and shall be renewed for each successive calendar year. A fee, as determined by resolution of the Town Council shall be

charged for the annual permit and shall be payable at the finance department. After the initial permit has been issued, any renewal shall be affixed to the vehicle no later than January 15 of the applicable current year.

- (c) Visitor/service permits. In addition to the decals issued pursuant to section 134-2295(b) above, upon application by owner, owner may be issued visitor/service permits, which permits may be used by such owner for the sole purpose of providing parking on a temporary basis to service vehicles which are conducting work at such owner's lot or for visitors of such owner's residence. The permits shall be used only for the period of time during which business is to be conducted by the service vehicles or for the duration of stay of a visitor to the residence for which the permit is issued. Visitor/service permits are intended for infrequent and temporary use and may not be utilized in a manner that constitutes abuse. No more than a total of eight permits, including decals and visitor/service permits, shall be issued for each lot. The application for a visitor/service permit or permits shall be filed by such owner. The permit or permits shall be valid for a calendar year as defined in section 134-2292 and may be renewed each successive calendar year. A fee, as determined by resolution of the Town Council shall be charged for each visitor/service permit and shall be payable at the finance department. These permits shall not be affixed to the vehicle, but shall be placed in a clearly visible place on the inside of the visitor's or service vehicle observable through the front windshield of the vehicle. The permits shall be valid only for the period of time during which the service vehicle is conducting work at the lot or for the period of time a visitor is at the lot.
- (d) Temporary group permits. A temporary group permit may be issued on application of any resident of the district for only one day and for no more than four hours on that day upon a showing by the applicant that during the hours for which the permits are to be issued his or her residence will be used for an assemblage of persons in a way consistent with its residential character and other provisions of law and that such visitors would not be able to park their vehicles without violating the law. However such permits for such an assemblage of persons shall only be issued upon a finding of the facts stated in this section and a further finding that the issuance of such permits will not impair public safety during the time of their validity, and in this connection such permits may be limited as to the streets or portions of streets on which they shall be valid. Finally, the number of such permits issued shall not at any time exceed 50 percent of the number of spaces available in the area in which they are valid. The application for a temporary group permit shall be filed by the resident seeking the permit. A fee as determined by resolution of the Town Council shall be charged for each temporary group permit. The permits shall not be affixed to the vehicle, but shall be placed in a clearly visible place on the inside of the visitor's vehicle observable through the front windshield of the vehicle.

Sec. 134-72 Privileges and Restrictions.

- (a) The holder of a residential parking permit shall be permitted to stand or park a motor vehicle displaying the permit and operated by him in any designated residential controlled parking area during such times and places as the parking of motor vehicles therein is permitted. While a vehicle for which a residential parking permit has been issued is so parked, such permit shall be permanently affixed on the left rear bumper of the vehicle. A residential parking permit shall not guarantee or reserve to the holder of the permit a parking space within a designated controlled parking residential area.

- (b) A residential parking permit shall not authorize the holder thereof to stand or park a motor vehicle in such places or during such times as the stopping, standing or parking a motor vehicle is prohibited or set aside for specified types of vehicles, nor shall it exempt the holder from the observance of any traffic regulation within the controlled parking residential area.
- (c) No person other than the permittee named thereon shall use the residential parking permit or display it on a vehicle operated or parked, and any such use or display by a person other than the permittee shall constitute a violation of this division by the permittee and by the person who so uses or displays such parking permit.
- (d) Any permit issued hereunder is nontransferable to another person or another vehicle.

Sec. 134-73 Unlawful Acts.

Under this division, it shall be unlawful for any person to:

- (a) Represent that he is entitled to a permit under this division when he is not so entitled;
- (b) To furnish any false information in an application to the finance department to obtain a residential parking permit;
- (c) Fail to surrender a permit to which he is no longer entitled; or
- (d) Park a vehicle displaying such a permit at any time when the holder of such permit is not entitled to hold it.
- (e) Park a vehicle without a properly displayed and valid residential parking permit issued pursuant to this division.
- (f) Park a vehicle displaying a counterfeit residential parking permit.
- (g) Modify or alter in any way a current or previously issued residential parking permit.
- (h) Give to another person or sale to another person a residential parking permit. Temporarily providing a visitor permit to a person legally entitled to use such under this division shall not be construed as being unlawful.
- (i) Provide a residential parking permit to any person or vehicle not legally entitled to possess or display such permit.
- (j) Utilize residential parking permits or visitor/service permits in a manner that constitutes abuse.

Sec. 134-74 Revocation.

The finance department is authorized to revoke the residential parking permit of any permittee found to be in violation of this division and, upon written notification thereof, the permittee shall surrender such permit to the finance department. Failure, when so requested, to surrender a residential parking permit so revoked shall constitute a violation of this division.

Sec. 134-75 Penalties.

Any person illegally parked pursuant to this division shall be fined in the manner provided for illegal parking and his/her vehicle may be towed and stored at his/her expense.

Sec. 134-76 Revocation of Decal/Permit.

- (a) (a)The chief of police or his/her designee is authorized to revoke the residential parking area decal/permits of any decal/permit holder based upon evidence that the decal/permit holder has violated the provisions of this article. The holder shall be served notice by certified mail or hand delivery of the proposed revocation and, upon request, shall have an opportunity to present to the Town Council evidence as to why the decal/permit should not be revoked. The decal/permit holder must request such a hearing in writing and pay an appeal fee set by resolution of the Town Council within ten days after the notice of proposed revocation is delivered or mailed. If the Town Council finds in favor of the decal/permit holder, the appeal fee shall be refunded. The holder of revoked decal/permits must return the decal/permits to the Town manager or his/her designee and shall not be allowed to reapply for another decal/permit for one year from the date of revocation.
- (b) (b)Revocation under subsection (a) is in addition to any other available remedy provided by this Code for violations of this article.

DIVISION 3. - RESIDENTIAL DISTRICTS ADJACENT TO COMMERCIAL DISTRICTS

Sec. 134-77 Restrictions on Parking.

Whenever the Town manager or his designee, which may include the structure official and the chief of police or their subordinates, shall determine that the streets of a particular district or discrete portion of the district in which residential uses are permitted and commercial uses are not permitted are being used for parking by the operators of vehicles while the operators of those vehicles are using districts in which commercial uses are permitted and the average number of vehicles parking in such a manner is in excess of 25 percent of the number of parking spaces on such streets and the total number of spaces actually occupied by any vehicles exceeds 75 percent of the number of spaces on such streets on the weekdays of any month, as disclosed by an engineering study, the Town manager or his designee shall prohibit parking during the hours when such use has been found on these streets of those districts or portions of districts found by the study or survey to have been so affected. In such cases the Town manager shall cause appropriate signs giving notice of the prohibition to be posted on those streets or portions of those streets restricting all parking, except parking by the holders of permits, to be granted only under the conditions in this division.

Sec. 134-78 Issuance.

Under this division, parking permits may be granted to persons as follows:

- (a) Resident permits. To persons who are residents of any particular area in which parking is so restricted, to be limited to that particular area in which parking is so restricted for every vehicle owned by those persons.

- (b) Visitor/service permits. In addition to the Resident permits provided under (1) above, upon application by owner, owner may be issued visitor/service permits, which permits may be used by such owner for the sole purpose of providing parking on a temporary basis to service vehicles which are conducting work at such owner's lot or for visitors of such owner's residence. These permits shall be used only for the period of time during which business is to be conducted by the service vehicles or for the duration of stay of a visitor to the residence for which the permit is issued. Visitor/service permits are intended for infrequent and temporary use and may not be utilized on a continual basis in a manner that constitutes abuse. No more than a total of eight permits, including decals and visitor/service permits, shall be issued for each lot. The application for a visitor/service permit or permits shall be filed by such owner. A fee is hereby authorized for issuance of said permit payable to the finance department for each visitor/service permit. The amount of the fee shall be established by resolution of the Town Council and may be amended from time to time by resolution of the Town Council. These permits shall not be affixed to the vehicle, but shall be placed in a clearly visible place on the inside of the visitor's or service vehicle observable through the front windshield of the vehicle. The permits shall be valid only for the period of time during which the service vehicle is conducting work at the lot or for the period of time a visitor is at the lot.
- (c) Temporary group permits. To residents as provided in section 134-2328.(4) Adjacent resident permits. To persons who are residential users in a commercially zoned area immediately adjacent and contiguous to the residential area in which parking is restricted, to be limited to that particular area in which parking is so restricted, for not more than two vehicles owned by that person and upon proof shown that on-site parking is not available to that person on the lot in which he resides within the commercially zoned area.

Sec. 134-79 Temporary Group Permits.

Under this division, on application of any resident of the district, permits, to be valid for only one day and for no more than four hours on that day, may be issued upon a showing by the applicant that during the hours for which the permits are to be issued his residence will be used for an assemblage of persons in a way consistent with its residential character and other provisions of law, and that such visitors would not be able to park their vehicles without violating the law. However, such permits for such an assemblage of persons shall only be issued upon a finding of the facts stated in this section and a further finding that the issuance of such permits will not impair public safety during the time of their validity, and in this connection such permits may be limited as to the streets or portions of streets on which they shall be valid. Finally, the number of such permits issued shall not at any time exceed 50 percent of the number of spaces available in the area in which they are valid.

The application for a temporary group permit shall be filed by the resident seeking the permit. A fee as determined by resolution of the Town Council shall be charged for each temporary group permit. The permits shall not be affixed to the vehicle, but shall be placed in a clearly visible place on the inside of the visitor's vehicle observable through the front windshield of the vehicle.

Sec. 134-80 Fees.

- (a) Annual parking permit fees. An annual fee is hereby authorized for issuance of said permit, payable at the Town finance department, for each annual permit issued under this division. The amount of the annual fee shall be established by resolution of the Town Council and may be amended from time to time by resolution of the Town Council.
- (b) Visitor/service permits. An annual fee is hereby authorized for issuance of said permit, payable to the finance department each visitor/service permit. The amount of the annual fee shall be established by resolution of the Town Council and may be amended from time to time by resolution of the Town Council.

Sec. 134-81 Issuance Criteria; Surrender on Termination of Conditions.

All permits issued under this division shall be based on satisfactory evidence that the applicant fulfills all the required conditions for such permit. Whenever the required conditions no longer exist, a person holding a permit issued under subsection 134-2327(1) or (3) shall surrender it to the Town manager or his authorized representative.

Sec. 134-82 Term.

No parking permit issued under this division shall be valid for more than one year but may be renewed upon expiration, provided the condition for issuance exists. The special limited permits issued under such sections 134-2327(2) and 134-2328, being limited on their face to a short period of time, are not required to be surrendered upon expiration but may be turned in by the holder.

Sec. 134-83 Exceptions.

- (a) Service vehicles. The parking limitation or prohibition of this division shall not apply to service or delivery vehicles being used to provide services or to make deliveries to dwellings in the affected district or area.
- (b) Metered parking areas. Wherever metered parking is in effect in any portion of a district that becomes subject to the restrictions of this division, the parking spaces controlled by meters may be excepted from this division so long as the control by meters continues.

Sec. 134-84 Signs.

The signs placed in parking areas subject to this division shall be of such character as to inform readily an ordinarily observant person of the existence of the rules and regulations imposing the restrictions of this division. It shall be unlawful for any person to violate such rules or regulations.

Sec. 134-85 Unlawful Acts.

Under this division, it shall be unlawful for any person to:

- (a) Represent that he is entitled to a permit under this division when he is not so entitled;
- (b) To furnish any false information in an application to the finance department to obtain a residential parking permit;

- (c) Fail to surrender a permit to which he is no longer entitled; or
- (d) Park a vehicle displaying such a permit at any time when the holder of such permit is not entitled to hold it.
- (e) Park a vehicle without a properly displayed and valid residential parking permit issued pursuant to this division.
- (f) Park a vehicle displaying a counterfeit residential parking permit.
- (g) Modify or alter in any way a current or previously issued residential parking permit.
- (h) Give to another person or sale to another person a residential parking permit. Temporarily providing a visitor permit to a person legally entitled to use such under this division shall not be construed as being unlawful.
- (i) Provide a residential parking permit to any person or vehicle not legally entitled to possess or display such permit.
- (j) Utilize residential parking permits or visitor/service permits in a manner that constitutes abuse.

Sec. 134-86 Penalties.

Any person illegally parked pursuant to this division shall be fined in the manner provided for illegal parking and his/her vehicle may be towed and stored at his/her expense.

Sec. 134-87 Revocation of Decal/Permit.

- (a) The chief of police or his/her designee is authorized to revoke the residential parking area decal/permits of any decal/permit holder based upon evidence that the decal/permit holder has violated the provisions of this article. The holder shall be served notice by certified mail or hand delivery of the proposed revocation and, upon request, shall have an opportunity to present to the Town Council evidence as to why the decal/permit should not be revoked. The decal/permit holder must request such a hearing in writing and pay an appeal fee set by resolution of the Town Council within ten days after the notice of proposed revocation is delivered or mailed. If the Town Council finds in favor of the decal/permit holder, the appeal fee shall be refunded. The holder of revoked decal/permits must return the decal/permits to the Town manager or his/her designee and shall not be allowed to reapply for another decal/permit for one year from the date of revocation.
- (b) Revocation under subsection (a) is in addition to any other available remedy provided by this Code for violations of this article.

Signs

Sec. 134-88 Purpose and Intent.

- (a) These sign regulations are established on the following findings of Town Council:
 - (1) That Palm Beach is internationally known and has become a worldwide synonym for beauty, quality and value and that a proliferation of signs without regulations as to size, location, and material detracts from such beauty and can become a visual blight. Signs, particularly if placed in rights-of-way, can create distractions for drivers impacting the safety and welfare of pedestrians and drivers and further create an aesthetically unpleasant atmosphere.
 - (2) That this Code is required to regulate signs as provided by F.S. § 163.3202(2)(f). The Town Council does not wish to censor speech but does wish to provide for the public welfare by regulating signage in the Town in a manner that enhances the aesthetics of the community, reduces visual pollution, and minimizes distractions to drivers in the interest of traffic safety.
 - (3) That the following standards are the least restrictive measures on free speech necessary to advance the Town's interest in aesthetic appeal and traffic safety., and that these regulations serve a significant government interest, are unrelated to the suppression of free expression, and maintain ample alternative channels of communication by adopting reasonable and appropriate time, place and manner regulations.

Sec. 134-89 Applicability.

- (a) Except as otherwise explicitly provided herein, these sign regulations apply to all of the following:
 - (1) All signage within the Town that may be directly viewed from a right-of-way, including vehicular and pedestrian rights-of-way and vias;
 - (2) All signage that may be directly viewed from a lot other than the lot on which the sign is located; and
 - (3) All signage that may be directly viewed from an unrestricted, publicly accessible outdoor space, including but not limited to surface parking areas, unenclosed yards, and driveways that are not gated.
- (b) A sign permit is required for all work related to any of signed allowed by these sign regulations. The Director is responsible for reviewing and issuing all sign permits.

Sec. 134-90 Exemptions.

- (a) These sign regulations do not apply to or govern the display of:
 - (1) The United States, State, County of Palm Beach, and Town flags and the flags of other nations or nationality groups that are unaltered from their officially adopted versions;

- (2) Flags that are four feet by six feet (4' x 6') or smaller in surface area, provided there is not more than two such flags per lot;
- (3) Signs installed by a government entity;
- (4) Cornerstones and permanent structure plaques that are carved into stone and/or that are an integral, structural component of a load-bearing wall;
- (5) Signs on vehicles that are regularly and customarily used to transport persons or lot for a business;
- (6) Signs required by law to be installed;
- (7) Signs and/or notices issued by, or required to be placed by any court, officer, or other person in performance of a public duty;
- (8) Seasonal lighting, decorations, and related elements that are in place for less than 60 consecutive days and do not require heavy equipment to move or remove;
- (9) Placards not more than twenty-four (24) square inches in total area and not higher than six inches (6") off the ground may be placed within three feet (3') of the base of a tree;
- (10) Placards not more than twenty-four (24) square inches in total area may be placed on a bench or a wall;
- (11) Up to two placards necessary for the identification of the lot and/or lot address for purposes of emergency response and access with a total area of one (1) square foot or less may be located on a lot; and
- (12) Other signs determined by the Director to be outside the scope of these sign regulations with respect to a reasonable, customary interpretation of their purpose and intent.

Sec. 134-91 Prohibited Signs and Sign Elements.

- (a) The following signs and sign elements are prohibited:
 - (1) Electronic messaging centers and changeable copy signs of any type;
 - (2) Box signs;
 - (3) Off-site advertising signs (billboards);
 - (4) Moving, flashing, and animated signs of any sort, including rotating, waving, or revolving signs, exposed neon, exposed LED, strip lighting of any kind, flashing messages, video signs with moving text or pictures, streamers, ribbons, pennants, spinners, and/or other similar moving devices;
 - (5) Roof signs or signs that extend beyond the parapet wall;
 - (6) Facade wall signs located higher than sixteen feet (16') in height on a structure;
 - (7) Portable signs;

- (8) Signs that imitate or resemble official traffic or government signs and signals;
 - (9) Signs that create a visibility hazard or impair the future utilization or expansion of public streets, walks, vias, and ways;
 - (10) Signs that cause, create, or allow public viewing of any obscenities or obscene material;
 - (11) Signs that are installed, erected, or attached in any form, slope, or manner to a fire exit or any door or window giving access to any fire escape or other emergency ingress and egress, unless approved or required by the Division of Fire;
 - (12) Back-to-back signs or double-faced signs;
 - (13) Banner signs;
 - (14) Vehicular use area or drive-through signs;
 - (15) Portable sidewalk or sandwich board signs;
 - (16) Projecting signs other than in vias;
 - (17) Ground mounted signs, including, but not limited to, monument signs, canopy signs, pole, or pylon signs; other than temporary yard signs;
 - (18) Mural signs;
 - (19) Signs on an awning or canopy;
 - (20) Signs painted directly on a structure surface or roof.
- (b) **Signs in a planned unit development (PUD).** No prohibited sign shall be permitted in any Planned Unit Development (PUD), nor shall any sign be approved in a Planned Unit Development (PUD) with greater dimensions than are permitted in these sign regulations.
- (c) **No bills.** No person shall paint, paste, print, or nail any paper sign, banner sign, handbill, or posting of any kind whatsoever, or cause the same to be done, on any curbstone, flagstone, or other portion of any sidewalk or street or upon any tree, lamppost, hitching post, telephone or telegraph pole, hydrant, bridge, workshop or tool shed, parking meter; electrical or utility box; government sign, wall, or upon any other structure within the limits of the Town except by resolution of the Town Council. This subsection shall not apply to legal notices required by law.
- (d) **Free access.** No sign shall be attached to or placed against a structure in such a manner as to prevent ingress or egress through any door of any structure, or any opening that is to be used in event of fire, or other emergency; nor shall any sign be attached to or obstruct in any manner a fire escape.

Sec. 134-92 Permitted Signs Types.

- (a) The following sign types are permitted subject to the standards and limitations set forth in these sign regulations:
- (1) Window and door sign;

- (2) Building entrance sign;
- (3) Facade wall sign;
- (4) Pedestrian via overhead sign;
- (5) Temporary yard sign.

Sec. 134-93 Sign Measurements.

- (a) An applicant for a sign permit bears the sole burden of calculating all sign measurements and proving that each proposed sign complies with all sign standards herein.
- (b) Unless otherwise expressly stated, the duration of a sign's placement shall be counted as the total number of days per calendar year that a sign is allowed to stand.
- (c) Light sources associated with signs shall be measured by the illuminance they produce on specified surfaces. To determine compliance with sign illuminance standards, an illuminance meter (also described as a lux meter) shall be held upright and directed at the center of the sign being measured.
 - (1) An illuminance reading for an internally illuminated sign shall be taken with the meter placed along lot lines that have direct views to the illumination.
 - (2) An illuminance reading for an externally illuminated sign shall be taken with the meter placed a distance equal to or greater than twice the largest dimension of the sign (e.g., if the sign is fifteen feet (15') wide and five feet (5') tall, the measurement shall be taken at a distance thirty feet (30') away from the sign).
- (d) For signs consisting of freestanding letters or features attached to a wall or window, the sign area is calculated as the total area of the smallest rectangle(s) that encapsulates text, numbers, symbols, images, and logos. This area does not include the supporting framework or bracing unless such framework or bracing is part of the message or sign face.
- (e) The width of a sign shall be measured as the longest horizontal measurement between the outermost edges of the sign.
- (f) The width and depth of a sign support structure shall be measured horizontal in perpendicular directions along the constructed elements that support a sign.
- (g) The clearance to the bottom edge of a sign shall be measured as the distance between grade level at the base of or beneath the sign and the lowest point of the lowest element of the sign that can be traveled under, including sign support structures that are not a structure..

Sec. 134-94 Sign Standards by Sign Type.

- (a) **Building entrance signs.**
 - (1) One building entrance sign of not larger than four (4) square feet in total sign area shall be permitted within two feet (2') of each public building entrance.

- (2) All building entrance signs shall be made of metal, glass, or finished, painted or stained wood, or a combination thereof.
- (3) No illumination is permitted on a building entrance sign except for shadow illumination of sign lettering or external direct lighting.

(b) Facade wall signs.

- (1) One facade wall sign per street frontage façade shall be allowed to be installed flat against the structure wall or in a ground floor window or door, provided that the sign shall not be located above the first story of the structure and the top of the sign not higher than sixteen feet (16') above the finished grade directly below the sign.
- (2) The total facade wall sign area allowance shall be based on the lineal structure frontage as measured on a street or a pedestrian via and shall not exceed twenty (20) square feet in total sign area shall be installed flat against the structure wall.
- (3) If a ground floor business has parking and its primary entrance is on the rear or side of a structure not directly fronting on a street but separated from the street by a parking area, one (1) additional facade wall sign of up to ten (10) square feet in total sign area shall be allowed.
- (4) Facade wall signs may be illuminated by shadow lighting of the sign lettering or direct external lighting only.



Diagram 134 (10) — Facade wall sign and Building entrance sign

(c) Overhead signs in pedestrian vias.

- (1) One (1) overhead hanging sign with a total maximum sign area of six (6) square feet shall be permitted for each business on the first floor of a structure within a pedestrian via so long as it is mounted on the wall of the structure fronting the via, has a minimum of eight feet (8') of clearance from the ground directly below the bottom of the sign.

- (2) For upper floor businesses located on a pedestrian via, one (1) overhead sign shall be permitted at the stairs to the upper floor(s) of the structure so long as no such sign exceeds four (4) square feet in total sign area and meets all of the same requirements as a first floor pedestrian via sign.
- (3) Overhead pedestrian via signs shall not be illuminated.

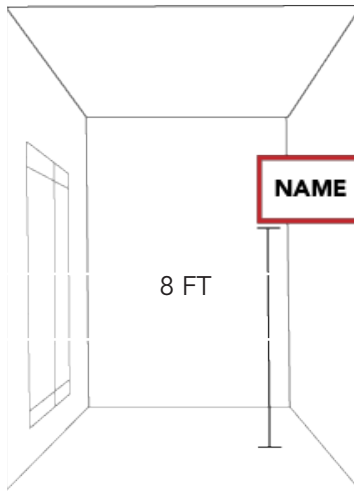


Diagram 134 (11) — Overhead sign in pedestrian via

(d) Window and door signs.

- (1) A door or window signs shall be allowed in addition to a facade wall sign so long as the total area of the window or door sign does not comprise more than fifteen percent (15%) of the total area of all of the glazing, including glass doors, on the front structure facade.
- (2) Window and door signs shall not be illuminated in any manner.

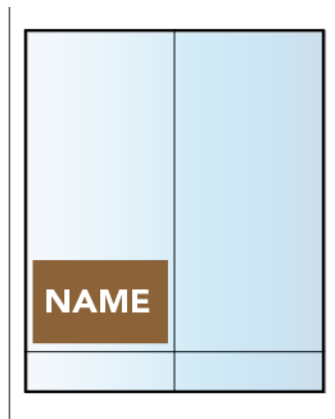


Diagram 134 (12) — Window sign

(e) Temporary yard signs

- (1) Each lot shall have the right to install up to one (1) small temporary yard sign for not more than thirty (30) total consecutive days up to three (3) times each calendar year.

- (2) A small temporary yard sign shall not be greater than two (2) square feet in total sign area, may extend up to four feet (4') above grade including the sign supports, and shall be made of vinyl, metal, or painted or stained finished wood.
- (3) In addition to a one (1) small temporary small yard sign, one (1) temporary post and panel yard sign may be permitted at any time during the period of sale or rent of a lot; provided, however, the total area of the sign hanging from the post shall not be greater than forty (40) square inches in total sign area, the top of the sign face shall not be higher than six feet (6') above grade at the post, the sign face shall have a white background with black block letters thereon, the sign shall not be closer to the right-of-way than five feet (5'), and the are of support from which the sign is suspended shall not be exceed 16 inches (16") in length. Any such post and panel sign shall be removed within five (5) days following the sale or rental of the lot.
- (4) Temporary yard signs shall not be illuminated in any manner.

Sec. 134-95 General Design and Illumination Standards.

- (a) **Sign electrics.** All electrical wiring, fittings, and material used in construction and operation of signs shall conform to the codes and specifications of the Town to the extent the specifications are in effect, or to the applicable codes of the State where they supersede those of the Town.
- (b) **Relation to traffic devices.** Privately owned signs shall not imitate traffic control devices and other signs installed by government entities in a public right-of-way. Unless regulated otherwise in the codes of the Town, signs shall not be erected in a manner that obstructs sight lines along any public right-of-way to or from:
 - (1) Traffic control lights;
 - (2) Traffic control signs;
 - (3) Street name signs;
 - (4) Street sight lines; and
 - (5) Similar official devices in a public right-of-way.
- (c) **Clear sight triangle required.** As shown in the graphic below, no walls, fences, or hedges shall be permitted within, and a clear site triangle shall be maintained as follows:

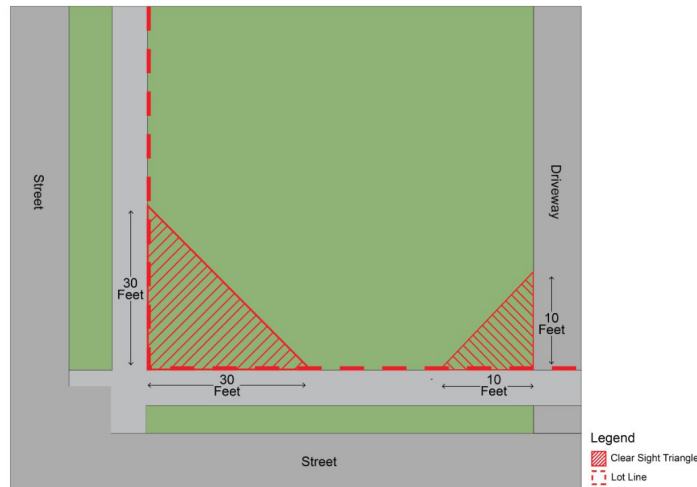


Diagram 134 (13) — Clear sight triangle

- (1) **Intersections of rights-of-way.** A clear sight triangle shall be maintained at all street intersections within the area formed by measuring thirty feet (30') along both directions from the corner point of the right-of-way intersection, connecting the end points with a straight line.
 - (2) **Intersections of driveways and rights-of-way.** A clear sight triangle shall be maintained at all intersections of driveways and streets within the area formed by measuring ten feet (10') along both directions from the corner point of the driveway pavement and the right-of-way, connecting the end points with a straight line.
 - (3) **Obstructions in a clear sight triangle.** Signs shall be located and designed in a manner that maintains a substantially clear view between two and one-half feet (2 1/2') and eight feet (8') above grade level within clear sight triangles.
- (d) **Illumination of signs.** Signage illumination shall meet the following standards:
- (1) **Internal illumination.** No internally illuminated signs are permitted.
 - (2) **Shielding required.** Light sources to illuminate signs shall be shielded from all nearby residential uses and from all rights-of-way and shall be of such brightness or intensity as to not cause a hazardous glare towards pedestrians or vehicle operators.
 - (3) **Externally illuminated signs.** Light sources that are intended for a sign and that are external from the sign may produce an illuminance of the sign face not exceeding thirty (30) footcandles. Such light sources must be directed towards the sign, must be shielded in a manner that prevents light from spilling past the edges of the sign, and must be shielded in a manner that prevents direct views of the source of light.

Sec. 134-96 Sign Maintenance and Removal.

- (a) **General maintenance standards.** All signs and sign-supporting structures must be maintained in a safe and secure condition.
- (b) **Removal of signs.** Signs that are no longer in service, or that have been abandoned, or that are not maintained in accordance with this Code or in accordance with another governmental agency with competent jurisdiction, must be removed by the permit holder,

the structure owner, and/or the lot owner. The Town may remove such signs at the expense of the permit holder, the structure owner, and/or the lot owner following a notice that complies with the applicable requirements of this Code.

(c) Notice of required maintenance or removal.

(1) Whenever the removal or maintenance of any permanent sign has been ordered by the Director and the entity to which such notice has been supplied fails to remove or maintain the sign within thirty (30) days after receiving such notice, the Director may remove or cause to be removed or maintained such sign at the expense of the sign permit holder, structure owner, and/or lot owner, as applicable.

(2) Prohibited and/or temporary signs that violate the standards of this Code shall be removed within five (5) days after a removal order is issued by the Director.

(d) Signs constituting a public hazard. If the Director determines that a sign constitutes an immediate hazard to public health and safety, then the Director shall promptly cause the repair or removal of the sign at the expense of the permit holder, the structure owner, and/or the lot owner, as applicable.

Landscaping & Buffering

Sec. 134-97 Purpose and Intent.

- (a)** These landscaping and buffering regulations herein are established on the following findings of Town Council:
 - (1)** Landscaping promotes the health, safety and welfare of the community by absorbing carbon dioxide and returning oxygen to the air; precipitating dust and other articles in the air; providing wildlife habitat; providing soil stabilization; making the built environment more attractive; and helping to abate noise.
 - (2)** Proper landscaping and irrigation techniques can result in significant water conservation.
 - (3)** Landscaping provides a positive aesthetic value to the Town.
 - (4)** Native shoreline ecosystems provide valuable shoreline stabilization and protection, wildlife habitat, and maintenance of environmental quality.
 - (5)** Pestilent exotic species constitute a nuisance in the Town due to the following:
 - a.** They have spread rapidly to many areas of the Town, displacing the diverse native Florida vegetation and associated wildlife habitat, and creating ecologically undesirable vegetative monocultures;
 - b.** They can have adverse effects upon human health and pose safety hazards during high wind conditions; and
 - c.** The health, safety and welfare of the present and future residents of the Town are benefited by minimizing degradation of the native ecological systems of the Town.
 - (6)** Various plant species having aesthetic, ecological, educational, historical, recreational, economic, or scientific value have been classified as endangered, threatened, or species of special concern and should be protected.
- (b)** It is the intent of the Town to promote the health, safety and welfare of existing and future residents of the Town by establishing minimum standards for the protection of natural plant communities, and the installation and continued maintenance of landscaping within the Town, in order to:
 - (1)** Promote health and safety through greater use of cultural and biological controls and reduced use of chemical pesticides for the management of pests, such as whitefly.
 - (2)** Promote the planting of appropriate native vegetation to encourage the presence of birds and wildlife and to eliminate or significantly reduce the need for fertilizers, pesticides and water

- (3) Improve air quality by promoting evapotranspiration and through the use of permeable land areas for aquifer recharge and surface water filtration.
- (4) Maintain and improve the aesthetic appearance of the Town through appropriate landscape design; thereby protecting and increasing lot values throughout the community.
- (5) Improve the environmental quality of the Town.
- (6) Eradicate Category I invasive exotic plant species and eradicate or control Category II invasive exotic plant species as identified by the most recent Florida Invasive Species Council (FISC) website.
- (7) Protect and encourage native shoreline and wetland ecosystems.
- (8) Offer special guidelines for the removal and control of those pestilent exotic species that are particularly deleterious to native shoreline environments.
- (9) Protect listed plant species that inhabit the Town as referenced herein.
- (10) Reduce noise and pollution by designing landscaping to visually screen unsightly views and reduce noise impacts from major roadways and incompatible uses, through the filtering capacity of living trees and vegetation.
- (11) Provide a visual buffer between otherwise incompatible types of land uses.
- (12) Strengthen important vistas and reinforce desirable site design.
- (13) Promote energy conservation by encouraging cooling through the use of vegetation that creates shade.
- (14) Encourage the use of rain harvesting systems, such as cisterns, as a means to conserve water by reducing overwatering of landscapes.
- (15) Promote water conservation and lower water costs through the use of smart irrigation systems and planting native plants appropriate for the location.

Sec. 134-98 Application Procedure for Vegetation Removal Permit.

- (a) Vegetation removal permits, not sought in conjunction with building permits, shall be obtained by making application to the Director prior to removal, relocation or replacement, at least ten (10) working days prior to the proposed date of removal.
- (b) Vegetation removal permits shall be issued in the following circumstances:
 - (1) Where a tree, due to natural circumstances, is no longer viable, is in danger of falling, is too close to existing structures so as to endanger such structures, interferes with utility services, creates unsafe vision clearance, or constitutes a health hazard;
 - (2) Where the affected vegetation will be relocated, replaced with a suitable substitute tree, or otherwise preserved, with the exception of mangroves, which are regulated elsewhere in this Code; or

- (3) Where tree removal is part of a plan to restore or encourage native shoreline species, either on the coastal strand or along Lake Worth.
 - (4) Where landscape buffers (plant material), thirty inches (30") in height or greater and directly adjacent to any side, rear street-side, or street-rear lot line, are removed and result in the loss of opacity of the existing screening, approval from the Architectural Commission or Landmarks Preservation Commission, whichever is applicable, for the removal of the landscape buffer or buffers must be obtained and a landscape removal permit is issued.
 - (5) In limited instances, the Director may approve removal when equal or greater replacement landscape material is proposed to replace the plant material removed, and thereby maintaining the landscape buffer or buffers opacity.
 - (6) If any landscape removal is done without Town approval or without a landscape removal permit, the originally-approved plant material must be replanted.
- (c) Upon approval of an application, the Director shall issue a permit which shall expire and become null and void if work is not commenced within ninety (90) days from the date of permit issuance.

Sec. 134-99 Landscaping Plans Required.

- (a) All site plans for new development and redevelopment which modify fifty percent (50%) or more of the existing landscape/greenspace shall be required to submit a landscape plan and irrigation plan to the Architectural Commission, or landmarks commission, as applicable. All plans shall be signed and sealed by a registered landscape architect, who shall guarantee that the plans meet all specifications of this chapter. The plans shall include a drainage statement by a professional engineer registered in the state that the landscape plan is not in conflict with the stormwater management plan.
- (b) Landscaping plans should identify:
 - (1) Any historic or specimen trees located on the lot.
 - (2) Any threatened or endangered vegetative species contained on the Florida Natural Areas Inventory's "Special Plants List," the Florida Game and Fresh Water Fish Commission's "Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida," or a comparable list approved by the Town planning, structure and zoning department.
 - (3) The location, size, botanical name, and common name of all existing vegetation four inches or larger in diameter on the lot.
 - (4) The location, species name, and common name of all proposed vegetation on the lot.
 - (5) The location and type of trees to be relocated or removed, and place of relocation if applicable.

- (6)** All elements of an approved stormwater management plan applicable to the project, and a drainage statement by a professional engineer registered in the state that the landscape plan is not in conflict with the stormwater management plan.
- (7)** Tree category showing at least thirty percent (30%) of all trees as native trees, as listed on either the Institute for Regional Conservation's (IRC) Natives for Your Neighborhood Florida Statewide Plant List or the Florida Native Plant Society's Native Plants for Your Area list. The tree category percentage is calculated on the number of trees.
- (8)** Shrub and vine category evidenceing that at least thirty percent (30%) of all shrubs and vines as native shrubs and vines as listed on either the Institute for Regional Conservation's (IRC) Natives for Your Neighborhood Florida Statewide Plant List or the Florida Native Plant Society's Native Plants for Your Area list. The shrub and vine category percentage is calculated on the number of shrubs and vines.
- (9)** Groundcover category evidenceing at least thirty percent (30%) of the groundcover area as native groundcover, as listed on either the Institute for Regional Conservation's (IRC) Natives for Your Neighborhood Florida Statewide Plant List or the Florida Native Plant Society's Native Plants for Your Area list. The groundcover category percentage is calculated based on the area.
- (10)** Lot boundaries, location of any site improvements, including but not limited to walls, fences, gates, retention areas, easements, rights-of-way, drainage structures, overhead and underground utilities, poles, fire hydrants, check valves, transformers and other features to remain or to be removed.
- (11)** Location, botanical name, and common name of all existing and proposed vegetation, including invasive or pestilent exotic species, three inches (3") or larger in diameter at standard height of four feet six inches (4'6") on the lot, identifying all vegetation that will be added, retained, relocated, removed or disturbed.
- (12)** Threatened or endangered vegetative species as identified by the Florida Department of Agriculture and Consumer Services in its Regulated Plant Index.
- (13)** Planting specifications, including but not limited to staking, fertilization, top soil, mulching, and identification of any mechanical equipment to be used.
- (14)** Method to protect trees, including historic or specimen trees, vegetation, and native plant communities during performance of work.
- (15)** Such other information that may be required to give a complete understanding of a proposed plan.
- (c)** Applications shall be accompanied by a fee which shall be in accordance with the schedule of fees adopted by resolution by the Town Council and amended in the same manner. When professional advice and/or consultation is required, as determined by the director of the planning, zoning and structure department, the expense shall be borne by the applicant.

- (d) Upon approval of an application, the Director shall issue a permit. Permits shall expire and become null and void if work is not commenced within ninety (90) days from the date of permit issuance. Work must be completed and pass final inspection within six months of permit issuance. A time extension for the permit may be granted by the Director or his or her designee for good cause upon written request. A denial of a time extension request may be appealed to Town Council. The appeal shall be filed within five business days of notice of denial. If an appeal to the Town Council is made, the Town Council shall act upon such appeal no later than forty-five (45) days subsequent to the notice of appeal.
- (e) Irrigation plans shall include:
 - (1) Layout of irrigation system and identification of components.
 - (2) Explanation of relationship between plant groupings and type of irrigation used.
 - (3) Irrigation plans must provide one hundred percent (100%) coverage of landscape areas.
 - (4) The irrigation system shall be equipped with rainfall or moisture sensing devices to avoid operation during periods of sufficient moisture.
 - (5) Automatically controlled irrigation systems shall be operated by an irrigation controller that is capable of watering high water requirement areas on a different schedule from low water requirement areas.
- (f) The hatracking of trees is prohibited; however pollarding is permitted.
- (g) Any person who performs work outside of the scope of an issued permit shall be subject to the enforcement provisions of this Code. In addition, the applicant may be required to pay to the Town a civil penalty equal to the total value of work required to restore the site to the conditions approved in the permit. Restoration work may be required as restitution in lieu of money. A combination of money and restoration work may be required.

Sec. 134-100 Water Conserving Landscape Design.

The following regulations shall be applicable to all new construction and substantial improvements.

- (a) Landscapes shall be designed in accordance with water conserving landscape design elements set forth herein.
- (b) Minimum landscaped open space shall be required as stipulated by the lot, yard, and bulk regulations in this Code.
- (c) The nine (9) principles of Florida friendly landscaping shall be utilized.
- (d) For lawns:
 - (1) If very drought tolerant grass is used, not more than seventy percent (70%) of the required landscaped open space shall be planted in lawn grass.
 - (2) If moderate drought tolerant grass is used, not more than sixty percent (60%) of the required landscaped open space shall be planted in lawn grass.

(e) Nonturfed areas.

- (1)** Nonturf areas shall be planted in mixes of trees, shrubs and ground covers.
- (2)** Plants shall be grouped according to their water needs, and irrigated accordingly. At least thirty-three percent (33%) of the groupings shall be characterized by highly or moderately drought tolerant vegetation.

(f) Irrigation standards.

- (1)** Irrigation systems, either manual or automatic, may be used for the cultivated landscape areas.
- (2)** Irrigation shall be designed in zones that reflect necessary water regimes for specific groupings of vegetation.
- (3)** Sprinkler heads irrigating lawns or other high water requirement landscape areas shall be circuited so that they are on a separate zone from those irrigating trees, shrubbery or other reduced water requirement areas.
- (4)** Zones containing existing native plant communities and ecosystems maintained in a natural state do not require, and shall not have any additional irrigation water added in any form.
- (5)** In order to prevent overthrow, low trajectory heads or low volume water distributing devices shall be used when irrigating confined areas
- (6)** No more than ten percent of spray radius shall be allowed onto impervious areas.
- (7)** Newly installed native plant areas may require irrigation during the establishment period. Water during this period shall be applied from a temporary irrigation system, a water truck, or by hand watering from a standard bib source
- (8)** A temporary irrigation system shall be removed no later than 60 days after completion of the planting.

(g) Organic mulches.

- (1)** When appropriate, a minimum of two inches (2") of arsenic-free organic mulch shall be installed around each tree planting for a minimum of eighteen inches (18") beyond its trunk in all directions, including palms, and throughout all hedge, shrub, and groundcover plantings.
- (2)** Mulch shall be pulled a minimum of two inches (2") away from trees and palms.
- (3)** Appropriate mulching material consists of by-product or alternative mulches such as eucalyptus, pine needles, pine finds, oak leaf, Atlas grow soil, utility or other mulch as recommended by Florida Friendly Landscaping principles.
- (4)** The use of Cypress mulch, pine mulch, and dyed mulches is prohibited.

- (h) Antitranspirants.** In order to reduce water loss through leaves during installation, antitranspirants shall be used and applied on all permitted landscape installation projects for a minimum period of ninety (90) days from the date of installation.

Sec. 134-101 Advanced Irrigation Systems.

- (a) This section shall be applicable to all new construction, substantial improvement and existing lots applying for a variance from the day-of-week watering restrictions imposed by the South Florida Water Management District (SFWMD), the City of West Palm Beach (WPB) or the Town of Palm Beach (Town). Variances from the day-of-week watering restrictions does not relieve a lot owner from complying with irrigation restrictions contained in a water shortage order or water emergency declaration issued by the SFWMD, WPB or the Town.
- (1) Any person who purchases or installs an automatic landscape irrigation system on their lot must properly install, maintain, and operate the system in accordance with manufacturer specifications, technology that inhibits or interrupts operation of the system during periods of sufficient moisture, and otherwise comply with the provisions of this section.
- (2) Evapotranspiration-based (ET) or moisture sensing-based controllers are required on any new automatic landscape irrigation system or controller installed subsequent to the date of adoption of this ordinance. In addition said systems are required on automatic irrigation systems when any principal structure on a lot in the Town is substantially altered.
- (3) Owners who have a properly operating evapotranspiration-based (ET) or moisture sensing controlled irrigation system shall be eligible for a variance from the day-of-the-week landscape irrigation restrictions set forth in section 122-78(b)(3) and (4) if the following requirements are met:
- a. The ET controller is approved by the Town of Palm Beach structure official as meeting the Environmental Protection Agency (EPA) WaterSense® specification for weather-based controllers, the requirements of the Irrigation Association (IA) for climate-based controllers or moisture sensor-based controllers, or some comparable and applicable standard.
 - b. The owner submits an application for variance to the Director along with an application fee in an amount adopted by the Town Council by resolution.
 - c. The owner posts a sign in a conspicuous location on the lot to inform the public of the approved variance. The sign shall be provided by the Town, the cost of which shall be payable to the Town in an amount to be determined by the Town Council by resolution, upon approval of the variance.
 - d. No irrigation occurs between the daily restricted hours as may be set forth by the South Florida Water Management District and/or the City of West Palm Beach, which is subject to change at any time.d.The Town shall maintain a database of all lots which have installed and maintained advanced irrigation systems in accordance with the requirements of this subsection, and which are exempt from the day-of-the-week irrigation restrictions set forth in section 122-78(b)(3) or (4).

- (4) A variance based on the installation and operation of an advanced irrigation system does not relieve a lot owner from complying with irrigation restrictions contained in a water shortage order or water emergency declaration issued by the South Florida water Management District, the City of West Palm Beach or the Town.
- (5) This section shall apply to all licensed contractors within the jurisdiction of the Town who install or perform work on automatic irrigation systems and to any person or entity which purchases or installs an automatic landscape irrigation system on their lot.
- (6) A licensed contractor or owner who installs or performs work on an automatic landscape irrigation system must test for the correct operation of each inhibiting or interrupting device or switch on the system. If such devices are not installed, or are not functioning properly, the contractor must install new devices or repair the existing ones and insure that each is operating properly before completing other work on the system.
- (7) A licensed contractor or owner performing work on an automatic landscape irrigation system shall report systems that are not in compliance with this section, to code enforcement personnel in the police department. Failure of a contractor or owner to report non-compliant systems within five business days is punishable by fines as specified in the violations and penalties section of this section. A system that is repaired by the contractor and brought into compliance need not be reported.
- (8) Regular maintenance and replacement of worn or broken moisture sensing equipment, such as soil moisture or rain sensors, is not a violation of this section, if such repairs are made within thirty (30) days from the time non-compliance is noted.
- (9) All contractors performing work on irrigation systems within the Town shall be licensed or registered under F.S. ch. 489, or the Construction Industry Licensing Board of Palm Beach County and shall hold a municipally-issued license or business tax certificate that permits work on irrigation systems.
- (10) A licensed contractor shall perform annually a maintenance review of the ET-controlled system and certify to the Town on an annual basis that the ET-controlled system is properly operating and in compliance with this section. Owners failing to provide such annual recertification that the system is properly operating shall result in revocation of the variance.

Sec. 134-102 Prohibited Plant Species.

- (a) Plants identified as pestilent exotic species shall not be installed as landscape material, and shall be removed from lot as part of development and redevelopment activity, prior to the issuance of a permit for said development and redevelopment activity.
 - (1) Australian pine (*Casuarina* spp.).
 - (2) Brazilian pepper (*Schinus terebinthifolius*).
 - (3) Punk or paper tree (*Meleleuca quinquenervia*).
 - (4) Old-world climbing fern (*Lygodium microphyllum*).

- (5)** Air potato vine (*Dioscorea bulbifera*).
 - (6)** Carrotwood (*Cupaniopsis anacardioides*).
 - (7)** Earleaf acacia (*Acacia auriculiformis*).
 - (8)** Schefflera (*Schefflera actinophylla*).
 - (9)** Kudzu (*Pueraria montana* var. *lobata*).
- (b)** An exemption or partial exemption from the prohibition of and removal requirements of Australian pines may be granted by the Architectural Commission or landmarks commission, as applicable, if the following conditions apply:
 - (1)** The Australian pine is used and maintained as a hedge. Failure to maintain the hedge will result in a code violation and removal of the hedge will be required.
 - (2)** The hedge or screen is located in an area where salt tolerant vegetation is required and where a viable aesthetic or organic option is not practical.
 - (3)** The Australian pine is not of the "sucker" type variety (*Casuarina glauca*).
 - (4)** The Australian pine is not directly adjacent to shoreline areas.
 - (5)** The Australian pine is maintained as part of the character of a landmarked district or vista such as the areas known as "Pine Walk" and "Wells Road."
- (c)** Upon removal of the prohibited and invasive non-native vegetation specified under this section, the lot owner shall maintain the lot free of such prohibited invasive non-native vegetation.
- (d)** Due to extreme susceptibility of the invasive white fly pest and the consequent enforcement issues to require owners to treat or remove infested ficus benjamina and ficus nitida, no new planting of ficus benjamina or ficus nitida shall be allowed, with the exception of replacement plantings associated with a utility easement. The planting of appropriate native vegetation in a hedge or hedgerow is encouraged.
- (e)** The county has recognized the Palm Beach Island Sanctuaries (R43 T43 S34; R43 T44 S03/10/15) located within the Town as a natural area containing high quality ecosystems that are worthy of protection. The Town hereby adopts for purposes of the protection of said natural area and for purposes of the regulation of the buffer area around said natural area those sections of the County Code known as the "Palm Beach County Countywide Prohibited Invasive Non-Native Vegetation Removal Ordinance" relating to the protection and regulation of these areas. Additionally, the Town adopts the incentive program offered by the county as incorporated within the "Palm Beach County Countywide Prohibited Invasive Non-Native Vegetation Removal Ordinance."
- (f)** Violations of this section shall be:
 - (1)** Failure of a lot owner to remove or eradicate prohibited invasive non-native vegetation in accordance with subsections (a) and (c) of this section.

- (2) Failure of a lot owner to maintain nonexempt lots free of prohibited invasive non-native vegetation in accordance with subsection (c) of this section:
- (g) The following are procedures which are to be followed for compliance and enforcement of this section.
 - (1) Inspection of a lot to determine the possible location of prohibited invasive non-native vegetation.
 - (2) Preparation and provision of a notice informing the lot owner of prohibited invasive non-native vegetation on the lot and instructions for the removal or eradication of the vegetation and a timeframe provided for compliance. A follow up inspection is conducted.
 - (3) In the event there is a failure to comply by the lot owner after notice as prescribed, the failure to comply will be noticed for hearing before the Town's code enforcement board.

Sec. 134-103 Protected Plants.

The following shall constitute protected plants:

- (a) Specimen trees are afforded special status and protection in the Town.
- (b) Plants identified as endangered or threatened, according to the Florida Natural Areas Inventory, Florida Game and Fresh Water Fish Commission "Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida," or a comparable list approved by the Town's planning, zoning and structure department, shall be identified on the required landscaping plan.
- (c) Removal of designated historic and specimen trees, and vegetational species identified as endangered or threatened, shall be prohibited.
- (d) **Exceptions.**
 - (1) Permission for removal of historic or specimen trees may be obtained from the Town Council or from the Town manager if the tree constitutes a danger to public health, safety or welfare, or otherwise requires immediate removal.
 - (2) When relocation is unavoidable, identified endangered or threatened species may be transplanted to an undeveloped portion of the site, or to an approved off-site location where preservation can be ensured.
- (e) When historic or specimen trees or endangered or threatened plants are identified, a management plan shall be presented to the Architectural Commission, or landmarks commission, as applicable. The management plan shall include:
 - (1) Methods to ensure preservation of the species, including buffer areas when appropriate.
 - (2) Methods to ensure protection of species while construction activity is taking place on lot.

Sec. 134-104 Artificial Turf—Locations.

In all districts, artificial turf shall be reviewed and may be approved in accordance with the Architectural Commission Project Designation Manual, or Project Designation Guide for Landmarked and Historically Significant Structure lots, and may be installed in limited areas of rear and side yards, or as a driveway accent in any yard, example to include strips of artificial turf placed between stone or concrete driveway pads. Artificial turf shall not be installed in any front yard areas, except as a driveway accent, or in any areas visible from the public right-of-way (regardless of whether it is in the rear or side yard). No artificial turf shall be installed in the public right-of-way.

Sec. 134-105 Artificial Turf—Standards.

All artificial turf shall comply with the following minimum standards:

- (a) Artificial turf installation shall be approved by either the Architectural Review Commission or the Landmarks Preservation Commission (depending upon the lot designation) and all artificial turf installation requires a building permit.
- (b) Artificial turf is calculated as impervious surface and shall not count towards landscape open space.
- (c) Artificial turf material shall be lead-free.

Sec. 134-106 Dunes Restoration.

(a) Findings.

- (1) Coastal dunes provide the first defense against wind and waves.
- (2) Coastal dune vegetation, including salt tolerant plant species such as sea oats, railroad vine, sea rocket, and sea grapes, aid in stabilizing beach and dune systems and promoting wildlife habitat areas.
- (3) Coastal dunes have been degraded by beach erosion and pestilent exotic species.
- (4) Some damaged coastal dune habitat can be restored.
- (b) It is the intent and purpose of the Town to provide for restoration of native dune systems wherever such opportunities exist.
- (c) All new development or redevelopment adjacent to the Atlantic Ocean shall be required to restore dune habitat when feasible, as determined by the Director.
- (d) Dune habitat shall be restored when:
 - (1) Native vegetation has been degraded by pestilent exotics or means other than erosion of the beach; or
 - (2) Significant beach and dune materials exist such that dune habitat can be restored and maintained.
- (e) Dune restoration shall be in accordance with section 66-81 et seq. and resolution number 37-89, which provide for the alteration of dune vegetation.

Sec. 134-107 Mangroves—Prohibitions.

- (a)** No person shall alter, allow or cause to be altered any mangrove in the Town without first obtaining approval of a shoreline management plan and receiving a permit from the planning, zoning and structure department.
- (b)** No approval shall be granted for the removal, alteration or destruction of mangroves by mechanical, chemical or other means except as provided for in this chapter.
- (c)** No approval shall be granted for the alteration or removal of any mangrove that serves as a nesting site for native or migratory birds.
- (d)** Prior to the commencement of any alteration, permits and approvals required by other federal, state and local agencies must be obtained, and copies must be submitted to the Town planning, zoning and structure department.
- (e)** Alterations must be consistent with the provisions of section 126-59.
- (f)** An approval shall be granted for alteration or removal of mangroves when:
 - (1)** The alteration is to provide upland lot owners with reasonable access to the water subject to the following guidelines:
 - a.** The removal or alteration of mangroves shall be restricted to one accessway running perpendicular to the shoreline.
 - b.** The width of the mangrove area affected by the accessway shall not exceed twelve feet (12').
 - c.** The applicant must demonstrate a need for the accessway if such accessway necessitates the removal and/or alteration of mangroves.
 - d.** The accessway must be designed and located in such a manner that the least amount of damage to the mangroves is assured.
 - e.** A shoreline management plan is submitted, through which the applicant shall provide mitigation of wetland loss.
 - (2)** The alteration is for visual access and is part of an approved shoreline management plan, as specified by these regulations.
 - (3)** Such removal or alteration is necessary to make reasonable use of the lot subject to the demonstration by the applicant that there is insufficient upland area or nonmangrove areas to make reasonable use of the lot; and, is part of an approved shoreline management plan, as specified by this chapter.
- (g)** The following alterations to mangroves are prohibited:
 - (1)** The removal of more than 25 percent of the lateral limbs or other lateral branches of any untrimmed white, black or buttonwood mangroves.
 - (2)** The reduction in height of any white, black or buttonwood mangrove by more than 25 percent of the foliage of any untrimmed mangrove.

- (3) The reduction in height of any red mangrove.
- (4) The reduction of more than 25 percent of the lower part of the canopy of red mangroves.
- (5) The removal of any trunk, limbs or other branches greater than one inch in diameter.
- (6) Alterations of any prop roots.
- (7) Alterations by other than hand-held, nonmechanized equipment.
- (8) Alterations of mangroves more than once every two years, except in connection with physical access.
- (h) Alterations of mangroves shall be permitted only in the months of October, November, December, January, February and March, except that alteration of mangroves shall be allowed year round in connection with physical access.
- (i) No approval under this subdivision shall be required for:
 - (1) Alteration by a state licensed land surveyor in the performance of his duties, provided such alteration is the minimum necessary and is limited to an area three feet (3') or less in width.
 - (2) Alteration by a waterfront lot owner who desires to alter mangroves that were voluntarily planted as part of an approved shoreline management plan, provided that such planting was not required for remedial purposes or as part of any prior development approval, and the alteration is specified by the shoreline management plan.
- (j) No person shall alter, allow, or cause to be altered any nonmangrove wetlands without first obtaining a permit from the Town planning, zoning and structure department.
- (k) No wetlands shall be altered without permits from appropriate federal, state and local agencies.
- (l) Compensatory wetland mitigation shall require that the amount of wetlands purchased, created, enhanced or restored be large enough to assure that the amount of wetlands destroyed or degraded will be completely and successfully replaced.

Sec. 134-108 Application Procedure for Conservation District Alteration.

- (a) Conservation district alteration permits shall be required to remove pestilent exotic or invasive species, install native species, maintain native habitat or make site improvements necessary to secure the lot. Such permits shall be obtained by submitting an application prior to removal, installation, maintenance or site improvement to the Director. The application shall include a written statement specifying the reasons necessitating the work to be performed.
- (b) Permits shall be issued in the following circumstances:
 - (1) Presence of pestilent exotic or invasive species.

- (2)** Work is necessary to protect against natural habitat degradation.
- (c)** The following conditions shall be required for issuance of a permit:
 - (1)** All native habitat must be restored in accordance with all federal, state, and local regulations.
 - (2)** Applicant must demonstrate plans for maintaining conservation area/native plant/threatened or endangered communities in a natural, undisturbed state.
 - (3)** Mulching or placement of removed vegetation on site is prohibited.
 - (4)** Documentation that all mangrove trimming will be done by an authorized professional mangrove trimmer (PMT) in accordance with F.S. § 403.9329.
 - (5)** All mechanical equipment necessary for the proposed work shall be identified and is subject to approval by the Director.

Walls, Fences, & Gates

Sec. 134-109 Purpose and Intent.

Walls, fences, and gates are important part of protecting the privacy of private lot and the Town's inhabitants. These wall, fence, and gate regulations set forth standards for consistency of scale, the safety of pedestrians and vehicles, and the aesthetic virtues of the Town.

Sec. 134-110 Applicability; Prohibitions.

- (a) All walls, gates, and fences within any district shall conform to these regulations:
- (b) No wall or fence shall be located closer than two and one-half feet (2½') to the rear lot line unless approved by the Town engineer, and execution and recordation of an acceptable removal agreement.
- (c) No fence or wall shall be located within the street right-of-way or streetward of the front lot line as provided for herein.
- (d) No chain link, metal, vinyl, or untreated or unpainted wooden fences shall be permitted.
- (e) No razor or constantine wire is permitted anywhere in the Town.
- (f) No walls shall have exposed unfinished concrete, exposed concrete masonry units, or concrete block, exposed glass block, or other unfinished materials.
- (g) All new walls, fences, and gates visible from the street shall be reviewed for approval by the Architectural Commission or the Landmark Preservation Commission, as applicable.

Sec. 134-111 Walls.

- (a) For walls fronting a street:
 - (1) The height of a wall shall be measured on the street side of the wall from the top of the wall and shall not exceed six feet (6') in height above the crown of the street at a point directly opposite such points of measurement.
 - (2) A wall shall be set back a minimum of three feet (3') from the lot line and have landscaping on the street side of the wall consisting of a continuous hedge at least three feet (3') in height at the time of planting.
 - (3) The natural grade may not be artificially changed to raise the height of said wall.
- (b) For walls not fronting a street:
 - (1) All walls located within ten feet (10') of the side or rear lot line shall not exceed seven feet (7') in height.
 - (2) The height of a wall or fence located in a side or rear yard shall be measured from the lowest grade on either side of the side or rear lot line adjacent to said wall to the top of the wall or fence and shall not exceed seven feet (7') in height.

(3) The natural grade may not be artificially changed to raise the height of said wall.

(c) Any retaining wall that is located within ten feet (10') of a wall in the same yard shall be at least one foot (1') lower in height than the other wall as measured from the lowest grade adjacent to the retaining wall to the top of said wall.

Sec. 134-112 Fences.

(a) For fences fronting a street:

(1) The height of a fence shall be measured on the street side of the fence from the top of the fence and shall not exceed six feet (6') in height above the crown of the street at a point directly opposite such points of measurement.

(b) For fences not fronting on a street:

(1) A fence shall be measured from the lowest grade on either side of the lot line adjacent to said fence. The natural grade along the side lot line within the front setback area may not be artificially changed to raise the height of said fence.

(c) Fences fronting a street shall not be less than fifty percent (50%) opaque and shall be set back a minimum of three feet (3') from the street lot line.

Sec. 134-113 Gateposts and Gates.

(a) Gateposts and gates not exceeding three feet (3') in any horizontal dimension may be erected and/or constructed in connection with the erection and/or construction of a wall, fence, or in connection with an existing or proposed hedge.

(b) Such gateposts and gates shall not exceed a height of two feet (2') above the permitted maximum wall height.

(c) If gates are to be erected at driveway entrances, the gates must be provided with a minimum driveway area in front of and perpendicular to the gates of a minimum of nine feet (9') wide by twenty feet (20') deep, as measured from the street edge.

(d) For a lot with a driveway located on a cul-de-sac or dead-end street, the required setback may be reduced provided it is approved as a special exception by the Town Council..

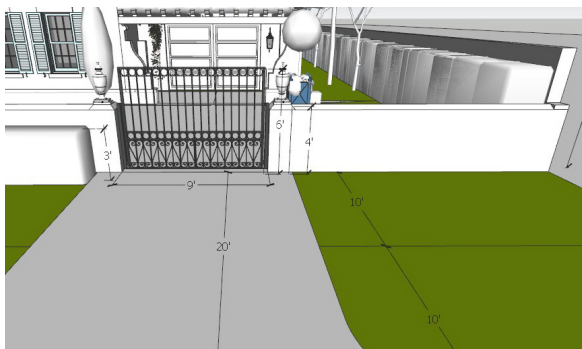


Diagram 134 (14) — Gates and driveway



Outdoor Cafe Seating

Sec. 134-114 Requirement Fees and Security Deposit.

- (a) It shall be unlawful for any person to provide outdoor cafe seating without an outdoor cafe seating permit from the Town. Outdoor cafe seating shall only be permitted in the R-D(2), C-TC, and C-WA districts if an outdoor cafe seating permit is issued by the Town.
- (b) There is an annual outdoor cafe seating permit fee established in the Town's master fee schedule and included in the annual business tax receipt.(c)Prior to the issuance of an outdoor cafe permit, the permittee shall provide a security deposit to the Town in the amount as identified in the Town's master fee schedule if any portion of the outdoor cafe seating is located within a Town right-of-way or on Town lot.

Sec. 134-115 Application.

After Town Council approval of a special exception zoning application, the applicant shall file for an outdoor cafe seating permit application to the Director. The permit application shall be provided by the planning, zoning and structure department.

Sec. 134-116 Standards and Criteria for Special Exception and Outdoor Cafe Permit Application Review.

The standards and conditions required to be met as part of the special exception application and outdoor cafe seating permit approval are those provisions provided for in section 123-229 and the following criteria and conditions:

- (a) Criteria and conditions required to be met for approval of outdoor cafe seating on a street sidewalk.
 - (1) Outdoor cafe seating is not allowed to increase the capacity of a restaurant, dining room, retail specialty food including the sale prepared foods for takeout only, or private, social, swimming, golf, tennis or yacht club. The exception is that a specialty food use, including the sale of prepared foods for takeout only that is under two thousand (2,000) square feet in gross leasable area may request up to eight [additional] outdoor cafe seats over the inside capacity provided that the seating meets the conditions herein.
 - (2) Limited service dining and nightclubs are not permitted to have outdoor cafe seating.
 - (3) An outdoor cafe seating area is restricted to the area abutting the boundary lines of the lot on which the business owned by the applicant is located.
 - (4) Outdoor cafe seating shall not be allowed where the outdoor seating furniture would be placed within five feet (5') of bus stops, loading zones, valet parking stands, sight triangles or other structures or areas determined by the director to require clearance for the public. For the purpose of this chapter outdoor cafe seating furniture is defined as tables, chairs, umbrellas, portable heaters, mist sprayers and any other customarily usual objects used in the outside cafe seating area.

- (5)** No outdoor cafe seating furniture shall be allowed within five feet (5') of a pedestrian crosswalk.
 - (6)** All outdoor cafe seating furniture shall be located in such a manner that a minimum five foot-wide unobstructed pedestrian path is maintained at all times.
 - (7)** No outdoor cafe seating furniture shall be permitted around the perimeter of an outdoor seating area that would have the effect of forming a physical or visual barrier discouraging the use of the pedestrian sidewalk.
 - (8)** An outdoor cafe seating area is prohibited from having music.
 - (9)** No wait stations shall be allowed outside on the sidewalk. All wait stations on private lot shall not be visible from a sidewalk or street.
 - (10)** All kitchen equipment used to service the outdoor cafe seating shall be located within a structure.
 - (11)** All outdoor cafe seating furniture and associated lighting shall be aesthetically and architecturally pleasing and approved by either the Architectural Commission or Landmark Preservation Commission, whichever is applicable.
 - (12)** An outdoor cafe seating area shall not count toward any maximum square footage limitations.
 - (13)** All outdoor cafe seating furniture, including all accessory appurtenances including but not limited to approved space heaters, misters and portable umbrellas that are located within the outdoor seating area shall be stored inside a structure after close of business.
 - (14)** No outdoor cafe seating furniture located within the public right-of-way shall be attached, chained or in any manner affixed to any tree, post, sign or other fixtures, curb or sidewalk within or near the permitted area.
 - (15)** The area covered by an outdoor cafe seating permit, and the sidewalk and street immediately adjacent to it, shall be maintained in a clean, neat and orderly appearance at all times and clear of any trash or refuse by the permittee. The area of the sidewalk, curb and gutter immediately adjacent to the sidewalk cafe shall be cleared of all debris during hours of operation and again at the close of each business day, or as may otherwise be determined by the director.
- (b)** Criteria and conditions required to be met for approval of outdoor cafe seating on private lot not within a street sidewalk:
- (1)** Outdoor cafe seating is not allowed to increase the capacity of a restaurant, dining room, retail specialty food including the sale of prepared food for takeout only, or private, social, swimming, tennis or yacht club. The exception is that a specialty foods use, including sale of prepared foods for takeout only that is under two thousand (2,000) square feet in gross leasable area may request up to eight [additional] outdoor cafe seats over the inside capacity provided that the seating meets the conditions herein.

- (2) Limited service dining and nightclubs are not permitted to have outdoor cafe seating.
- (3) Outdoor cafe seating is restricted to boundary lines of the lot on which the business owned by the applicant is located.
- (4) All tables, chairs, umbrellas, mist sprayer, space heaters or other customarily usual outdoor cafe seating furniture shall be located in such a manner that a minimum four foot-wide unobstructed pedestrian path is maintained at all times.
- (5) No objects shall be permitted around the perimeter of an outdoor cafe seating area occupied by tables and chairs that would have the effect of forming a physical or visual barrier discouraging the use of the pedestrian path.
- (6) An outdoor cafe seating area on private lot shall only be allowed to have low-level, background music that does not exceed the maximum noise decibel requirements in sections 42-226 through 42-228 if approved by the Town Council as part of the special exception application approval.
- (7) No wait stations shall be allowed outside on a street sidewalk. All wait stations on private lot shall not be visible from a sidewalk or street.
- (8) All kitchen equipment used to service the outdoor cafe seating shall be located within a structure.
- (9) All outdoor cafe seating furniture, including all accessory appurtenances including but not limited to approved space heaters, misters and portable umbrellas that are located within the outdoor seating area shall be stored inside a structure after close of business.
- (10) All outdoor cafe seating furniture, including the tables, chairs, awnings and space heater equipment shall be aesthetically and architecturally pleasing and approved by either the Architectural Commission or Landmark Preservation Commission, whichever is applicable.
- (11) The area covered by an outdoor cafe seating permit, and the sidewalk and street immediately adjacent to it, shall be maintained in a clean, neat and orderly appearance at all times and clear of any trash or refuse by the permittee. The area of the sidewalk, curb and gutter immediately adjacent to the sidewalk cafe shall be cleared of all debris during hours of operation and again at the close of each business day, or as may otherwise be determined by the director.
- (12) Areas associated with the outdoor cafe seating shall not count toward any maximum square footage limitations.

Sec. 134-117 Liability and Insurance.

- (a) Prior to the issuance of a business tax receipt the applicant shall furnish the Town with a signed statement that the permit shall hold harmless the Town, its officers, employees, Palm Beach County or the Florida Department of Transportation (FDOT) (if within or abutting either governmental entities rights-of-way) for claims of damages to lot or injury to person which may be occasioned by any activity carried out under the terms of the business tax receipt and approved outdoor sidewalk cafe permit. The statement shall

include that the permittee shall be responsible, shall indemnify and shall hold the Town, Palm Beach County and/or FDOT harmless for performance of and payment for any environmental remediation that may be necessary, as determined by the FDOT, as a result of permittee's use of the area of the outdoor sidewalk cafe.

- (b) Permittee shall furnish and maintain public liability, food products liability, liquor liability, and lot damage insurance for the benefit of the Town and/or Palm Beach County or FDOT (if within or abutting either governmental entities rights-of-way) from all claims and damage to lot or bodily injury, including death, which may arise from operations under the business tax receipt or in connection therewith. Such insurance shall provide coverage of not less than \$1,000,000.00 for bodily injury or death to any one person or any number of persons in any one occurrence and lot damage, respectively, per occurrence, or a combined coverage of not less than \$2,000,000.00. Such insurance shall be without prejudice to coverage otherwise existing therein and shall name as additional insureds the Town, Palm Beach County and/or FDOT, their officers and employees, if within or abutting either's rights-of-way and shall further provide that the policy shall not terminate or be canceled prior to the completion of the business tax receipt period without 45 days written notice to the risk manager at the address shown on the business tax receipt.
- (c) Damage to the public sidewalk or any public structure as a result of the outdoor cafe seating operation shall be the responsibility of the lot owner to repair to the satisfaction of the Town.
- (d) The Town and its officers and employees shall not be responsible for sidewalk seating components relocated or damaged during emergencies.

Sec. 134-118 Denial, Revocation or Suspension of Approval.

- (a) An outdoor cafe seating permit shall be denied if all of the requirement and/or conditions in sections 134-2106 and 134-2107 are not met. An outdoor cafe seating permit may be modified, suspended or revoked by the planning, zoning and structure director if it is determined that the business is violating the requirement and/or conditions in sections 134-2106 and 134-2107 or if it is determined by the Town that the outdoor cafe seating is negatively impacting neighboring lot owners or tenants.
- (b) The Director may require the temporary removal of sidewalk cafe outdoor seating when street, sidewalk or utility repairs necessitate such action.
- (c) If found to be necessary for the protection of the health, safety and welfare of the public, the departments of public works, police and fire-rescue or other emergency service providers may require the applicant to immediately remove or relocate all or parts of the sidewalk outdoor cafe seating and, if necessary, the Town may remove or relocate same in emergency situations.

Sec. 134-119 Appeal of Denial, Suspension or Revocation by the Director

The Town Council shall hear any appeal of a denial, suspension or revocation of an outdoor cafe seating permit by the Director.

Other Generally Applicable Regulations

Sec. 134-120 Air Conditioning Equipment.

- (a) Air conditioning equipment shall not be allowed in a front yard.
- (b) A maximum of two pieces of air conditioning equipment not exceeding six feet (6') in height above grade or the minimum flood elevation, whichever is higher, may be allowed in a side, rear, street side, or street rear yard provided all of the following requirements are satisfied:
 - (1) The equipment shall not be located closer than ten feet (10') from any side or rear lot line or twenty feet (20') from any side or rear lot line fronting a street.
 - (2) The equipment shall be completely screened from the neighboring lot and the street by a concrete wall at least as high as said equipment but not exceeding the maximum height of a wall set forth in this Code. A neighboring existing concrete wall can satisfy said requirement provided that wall meets the height requirement to completely screen said equipment from the adjacent neighbor and the applicant enters into a recorded agreement with the Town to construct said wall as provided for in the Code to meet the screening requirement should the neighboring wall be removed.
 - (3) If the equipment and required new screening wall can be viewed from the street, said equipment and wall shall be approved by either the Architectural Commission or Landmark Preservation Commission, whichever is applicable. Intervening landscape material shall not be considered when determining air conditioning equipment visibility.
- (c) No window air conditioning units shall be allowed on the front façade of a structure.
- (d) No through-wall air conditioning units shall be allowed on any façade of a structure.
- (e) The aforementioned regulations shall also apply to cooling towers.

Sec. 134-121 Dish Antennas.

A dish antenna shall be an accessory structure and shall be constructed, erected, or placed in compliance with all regulations applicable to accessory structures.

- (a) Dish antennas shall not exceed one meter in diameter.
- (b) Only one dish antenna that exceeds one meter in diameter shall be permitted on a structure lot. Such dish antenna which exceeds one meter in diameter shall not be attached to a structure, shall not be closer than ten feet (10') to any side or rear lot line, shall not exceed twelve feet (12') in height above the average grade, and, shall not be located in a required front yard, side yard or rear yard setback.
- (c) There shall be no limit on dish antennas one meter or less in diameter and said antenna(s) may be attached or unattached to a structure.

- i. If said dish antenna(s) is unattached, said antenna(s) shall not exceed twelve feet (12') in height above the average grade, be located no closer than ten feet (10') to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback.
- ii. All attached and unattached dish antennas in this residential district shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character.
- iii. No form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate). *Note: One meter in the metric system of measurement equals 39.37 inches (39.37") or 3.28 feet (3.28').*

Sec. 134-122 Dumpsters and Recycle Containers.

- (a) The regulations in this section shall apply to all dumpsters or containers for sanitation service or recycling service other than trash or recycling receptacles meant for single-unit dwelling use. Temporary dumpsters or recycle containers, such as those which are placed on job sites during construction activity, are not subject to these regulations.
- (b) All dumpsters recycle containers shall be located so as to be reasonably accessible for trash collection by the sanitation vehicles, and shall not be located within any front yard or yard fronting a street, or within any public right-of-way.
- (c) All dumpsters and recycle containers shall be screened from public view, from public rights-of-way, and from abutting lots as follows:
 - a. Dumpsters and recycle containers shall be placed on a hard surface, of adequate size to accommodate the dumpster and garbage trucks, and shall be screened on all four sides with a minimum six foot (6') high masonry wall and six foot (6') high solid gates of the same architectural style, color, and materials as the principal structure, which at all times shall be maintained in good conditon and repair.
 - b. Gates shall be closed when the dumpster or recycle containers are not being filled or dumped, and shall be maintained in good condition and repair.
 - c. Dumpsters and recycle containers shall be located not less than fifteen feet (15') from a residential district or residential use. If any dumpsters and recycle containers is located in any yard abutting a residential district or residential use, landscaping of at least three feet (3') in height when planted shall be placed between the enclosure and the adjacent lot line for the entire width of the enclosure.

Sec. 134-123 Freestanding Awnings, Carports, Portable Beach and Swimming Pool Cabanas.

Freestanding awnings, carports, and portable beach or swimming pool cabanas, which are open all on all sides, are permitted provided they are not located in any required setback.

Sec. 134-124 Generators.

- (a) Except for generators serving a public purpose and owned and operated by the Town or temporary generators used during or after a natural disaster such as a tropical storm or hurricane event, and which are therefore exempt from these regulations, portable or permanent generators temporarily or permanently placed on the ground, on a stand or on a trailer, shall not be placed in any front yard or yard fronting a street.
- (b) One (1) or a combination of more than one portable or permanent generators with combined output of not more than 60 KW shall be allowed provided only one (1) generator is located within the same yard.
- (c) Generator(s) shall be allowed not closer than ten feet (10') from a side or rear lot line provided the following requirements are satisfied:

 - (1) There is only one generator within the same yard area.
 - (2) The generator(s) shall not, at any time or for any purpose, exceed the maximum decibels allowed at the lot line.
 - (3) The highest point on the generator(s) shall not exceed a maximum of seven feet (7') above the grade of the adjacent lot closest to the generator or zero datum.
 - (4) The generator(s) shall be completely screened from a street and the neighboring lot by a concrete wall the same height as the generator(s) (including the height of the exhaust muffler). A neighboring existing concrete wall can satisfy said requirement provided that wall meets the height requirement to completely screen said equipment from the adjacent neighbor and the applicant enters into a recorded agreement with the Town to construct said wall as provided for in the Code to meet the screening requirement should the neighboring wall be removed.
- (d) If the generator(s) is visible from a street or public way, its location shall be subject to approval by the Architectural Commission or Landmarks Preservation Commission, whichever is applicable. Intervening landscape material shall not be considered when determining a generator's visibility.
- (e) The generator's exhaust shall, as much as practically feasible, be vented upwards or directed away from neighboring lots.
- (f) The generator(s) shall be used only during periods of power outages or for periodic testing and necessary maintenance operation and shall not be used to sell power back to a power company or for use by power customers during periods of peak demand.
- (g) The generator(s) shall be operated for routine testing and maintenance purposes not more than one time in any seven-day period and no test shall exceed thirty (30 minutes). Testing of emergency generators is permitted Monday through Thursday only (excluding holidays), between the hours of 11:00 a.m. and 12:00 p.m. or 2:00 pm. and 3:00 p.m.
- (h) Testing may be conducted when the unit is being repaired, provided that such testing period shall not exceed thirty (30) minutes and shall be conducted only between the hours of 10:00 a.m. and 5:00 p.m. Monday through Saturday, excluding holidays.

- (i) Generators shall not be permitted on the roof of a structure.
- (j) If the generator exceeds an output capacity of 100 KW or the combined output capacity of multiple generators exceeds 120 KW, said generator(s) shall be subject to site plan review. If any individual generator output capacity exceeds 100 KW it shall be housed in an enclosed structure with landscaping as approved by the Architectural Commission or Landmarks Preservation Commission, whichever is applicable.
- (k) If the generator exceeds 60KW and is 100KW or less, it shall be screened from view at the street and from the neighboring lots by a concrete wall, at least the same height as the generator (including the height of the exhaust muffler). A neighboring existing concrete wall can satisfy said requirement provided that wall meets the height requirement to completely screen said equipment from the adjacent neighbor and the applicant enters into a recorded agreement with the Town to construct said wall as provided for in the Code to meet the screening requirement should the neighboring wall be removed.
- (l) Notwithstanding anything to the contrary contained herein, the Director may grant a waiver allowing a one (1) generator with an output capability in excess of 60KW to be located within a side or rear yard, provided the applicant submits a site plan and evidence or testimony substantiating each of the following conditions:
 - (1) The output of a 60 KW or less generator is incapable of providing enough electricity for the basic necessity of occupying a structure and/or protecting interiors or possessions in a structure from the damaging effects of prolonged loss of power.
 - (2) The proposed location is not merely for the convenience or preference of the applicant, but that there is no other location outside of the required setbacks that will provide for safe placement of the generator.
 - (3) The proposed location represents the minimum intrusion into the required setback(s) necessary to safely accommodate the generator.

Sec. 134-125 Home Occupations.

- (a) An occupation conducted in a dwelling unit, provided that no more than one person other than members of the household residing on the lot shall be engaged in such occupation.
- (b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than thirty-five percent (35%) of floor area of the dwelling unit shall be used in the conduct of the home occupation.
- (c) There shall be no change in the outside appearance of the structure or lot, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding four square feet in area, non-illuminated, and mounted flat against the wall of the principal structure.
- (d) No traffic shall be generated by the conduct of such home occupation and any need for parking generated by the conduct of such home occupation shall meet the off-street

parking requirements as specified in this Zoning Ordinance, and shall not be located in a required front yard.

Sec. 134-126 Outdoor Lighting Equipment.

- (a) The maximum height for poles or structures for purpose of supporting lighting fixtures and lighting equipment in commercial districts and for multi-unit dwellings shall be fifteen feet (15') above finished grade. No pole lighting shall be allowed for any single-dwelling, two-unit dwelling, or Townhouse uses.
- (b) The following exterior or landscape lighting is prohibited:
 - (1) Lighting or fixtures that allow more than one half (0.50) foot-candle to spill off the lot.
 - (2) Lighting that is directed or aimed in such a manner as to create a nuisance or glare to any abutting lot.
 - (3) Lighting that is installed and/or aimed in such a manner as to create a nuisance or glare to passers-by, either by foot or in a moving vehicle.

Sec. 134-127 Outdoor Promotional Events.

- (a) Outdoor promotional events shall only be allowed in the C-TC, C-WA and C-RP districts by special exception approval.
- (b) It shall be unlawful for any person to have an outdoor promotional activity without approval by the Town Council of a special exception application and a declaration of use agreement which identifies any conditions of approval and remedies for violation of those conditions in this Code.
- (c) Said events are subject to the additional requirements set forth below:
 - (1) A special exception application for outdoor promotional events shall only be allowed to be filed by the lot owner where outdoor promotional events are to be held.
 - (2) The lot owner shall be responsible for sponsoring and managing any outdoor promotional event on a lot.
 - (3) The number of outdoor promotional events per year shall be determined by the Town Council and provided in the required declaration of use agreement.
 - (4) The hours and days in which outdoor promotional events may occur shall be determined by the Town Council and provided in the declaration of use agreement.
 - (5) Amplified music or sound shall only be allowed if said event is held two hundred feet (200') or more from any residential use. Such event shall meet the Town's noise regulations as provided in sections 42-196 through 42-229 of the Code.
 - (6) There shall be no outdoor sales of alcoholic beverages other than the sales related to Town approved outdoor seating for the licensed businesses on the lot.

- (7) Any approval of a special exception to allow outdoor promotional events shall be required to be reviewed by the Town Council one year following approval and recordation of the declaration of use agreement. Said approval may be amended or revoked by the Town Council at that time should it be determined that said use has a negative impact on surrounding lots.
- (d) Approval of outdoor promotional events may be revoked or modified by the Town Council at any time should it be determined that said use has a negative impact on surrounding lots.

Sec. 134-128 Playground Equipment.

- (a) Playground equipment shall only be allowed in residential districts. Playground equipment, including but not limited to, slides, swing sets and tether balls shall not be allowed in a required front yard. Said equipment shall be allowed in all residential districts with a minimum side and rear yard setback of ten feet (10') and a setback of fifteen feet (15') from any lot line fronting a street.
- (b) Said equipment shall not exceed a maximum height of fifteen feet (15') above existing grade.
- (c) Said equipment shall be completely screened from a street with either a hedge, wall, or other combination of wall or other landscape material.
- (d) Tree houses are prohibited.

Sec. 134-129 Private Outdoor Sporting Facilities.

- (a) Private outdoor sporting facilities shall be allowed in the rear yards in any residential district. All courts shall be at least ten feet (10') from any rear or side lot line and fully screened from view from neighboring lots by a fully opaque hedge, wall, or fence of at least six feet (6') in height.
- (b) Private outdoor sporting facilities shall not be permitted on lots less than ten thousand (10,000)square feet in total area.
- (c) All private outdoor sporting facilities shall be situated on a lot in accordance with a site plan approved by Town Council.
- (d) The game of pickleball or any game or sport that uses hard paddles to hit hard balls or objects shall not be permitted within any private outdoor sporting facilities in any residential district other than the R-D(1) and R-D(2) districts.
- (e) One (1) basketball goal shall be allowed on a lot provided that it is setback a minimum of fifteen feet (15') from a front lot line or any lot line fronting street and ten feet (10') from a side or rear lot line.
- (f) Private outdoor sporting facilities shall only be used only from 9:00 a.m. to 8:00 p.m. If the Town receives three or more valid written noise complaints from a lot owner within two hundred feet (200') of the lot on which the facility is located within a 12-month period, as determined by the Code Enforcement Division of the Public Safety Department, all activities within such offending facility shall immediately cease. If three legitimate complaints are

verified, said offending facility shall be removed unless approved by special exception approval by the Town Council.

Sec. 134-130 Rooftop Equipment Screening.

- (a) Structures located upon the roof shall not cover in the aggregate a roof area greater than ten percent (10%) of the ground floor area of such structure or structure.
- (b) All rooftop equipment for purposes of operating and maintaining a structure which are permitted on the roof shall be sight screened so as not to be visible from the ground.
- (c) Solar materials shall be permitted on the roof provided said material is approved by the Architectural Commission or Landmark Preservation Commission, as applicable.

Sec. 134-131 Statuary or Sculpture.

- (a) Any statue and/or sculpture exceeding six feet (6') in height shall be an accessory structure and shall be constructed, erected or placed in compliance with all regulations applicable thereto.
- (b) No statue and/or sculpture shall exceed twelve feet (12') in height.
- (c) Any statue and/or sculpture visible from the street or any public right-of-way that exceeds six feet (6') in height shall require advance review and approval by the Architectural Commission or Landmark Preservation Commission, as applicable.

Sec. 134-132 Swimming Pools and Fountains.

- (a) Private swimming pools shall be allowed in any yard so long as they are completely screened from view by a completely opaque wall, fence, or hedge of at least six feet (6') in height. Fences and hedges shall not be used to screen a swimming pool in any front yard.
- (b) Swimming pool and fountain equipment shall be allowed in a required side, rear, or street-side yard provided the following requirements are met:
 - (1) Swimming pool and fountain pump, filter, and heater equipment shall be setback a minimum of ten feet (10') feet from any side or rear lot line and twenty feet (20') from any street-side lot line and shall not exceed a maximum height of four feet (4') above grade or the minimum flood elevation, whichever is higher.
 - (2) Swimming pool and fountain pump, filter, and heater equipment shall not exceed four pieces of equipment.
 - (3) Swimming pool and fountain pump, filter, and heater equipment shall be completely screened from a neighboring lot and a street by a wall as high as said equipment. Said wall cannot exceed the maximum height allowed by Code. A neighboring existing concrete wall can satisfy said requirement provided that wall meets the height requirement to completely screen said equipment from the adjacent neighbor and the applicant enters into a recorded agreement with the Town to construct said wall as provided for in the Code to meet the screening requirement should the neighboring wall be removed.

- (4) If the equipment and required new screening wall or pump house can be seen from the street, said equipment and wall shall be approved by either the Architectural Commission or Landmark Preservation Commission, whichever is applicable. Intervening landscape material shall not be considered when determining swimming pool and fountain pump, heating and filter equipment visibility.

Sec. 134-133 Temporary Storage Units.

- (a) A temporary roll-off storage unit, such as a portable on demand storage unit, is permitted on a lot for a maximum period of five (5) business days, three (3) times per calendar year, provided the lot owner obtains a permit from the Town prior to said roll-off or portable on demand storage unit being placed on the lot.
- (b) The time limit and permit provisions for temporary roll-off storage unit or vehicle used for storage shall be suspended for such time that a state of emergency is declared by the state or Town Council.

Sec. 134-134 Vias and Pedestrian Ways

Vias, pedestrian ways, and courtyards, whether or not activated for commercial use, and no matter the surface material, shall not count toward any maximum impervious surface coverage

Telecommunication

[THIS SECTION HAS NOT BEEN REVIEWED AND WILL BE REVIEWED SEPARATELY. IT HAS BEEN COPIED AND PLACED HEREIN IN UNEDITED FORM PENDING REVIEW.]

Sec. 134-135 Purpose.

- (a)** The purpose of this division is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this division are to:
 - (1)** Protect residential areas and land uses from potential adverse impacts of towers and antennas;
 - (2)** Encourage the location of towers in nonresidential areas;
 - (3)** Minimize the total number of towers throughout the community;
 - (4)** Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
 - (5)** Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
 - (6)** Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
 - (7)** Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
 - (8)** Consider the public health and safety of communication towers; and
 - (9)** Avoid potential damage to adjacent lots from tower failure through engineering and careful siting of tower structures.
- (b)** In furtherance of these goals, the Town shall give due consideration to the Town's comprehensive plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

Sec. 134-136 Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a)** Alternative tower structure means manmade trees, clock towers, bell steeples, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

- (b) Antenna means any exterior stealth designed device used for transmitting and receiving, mounted on a tower, alternative tower structure, structure or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies excluding radar signals, wireless telecommunications signals or other communication signals. This definition does not include over-the-air reception devices which deliver television broadcast signals, direct broadcast signals, direct broadcast satellite services or multichannel multipoint distribution services, as defined and regulated by 47 CFR 1.4000, as amended.
- (c) Backhaul network means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
- (d) Engineer means a registered engineer licensed in the state to provide any information of an engineering nature, whether civil, electrical or mechanical.
- (e) FAA means the Federal Aviation Administration.
- (f) FCC means the Federal Communications Commission.
- (g) Height means, when referring to a tower or other structure, the distance measured from the zero datum of the lot, as defined in this chapter, to the highest point on the tower or other structure, including any antenna.
- (h) Preexisting tower and preexisting antenna mean any tower or antenna for which a building permit has been properly issued prior to the effective date of the ordinance from which this division derives, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
- (i) Stealth design means a method that would hide or conceal an antenna, supporting electrical or mechanical equipment, or any other support structure that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (j) Tower means any ground mounted structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

Sec. 134-137 Applicability.

- (a) New towers and antennas. All new towers or antennas in the Town shall be subject to this division, except as provided in section (b) of this section.
- (b) Preexisting towers or antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this division, other than the requirements of sections 134-2096 and 134-2099.

Sec. 134-138 Permitted or Special Exception Use.

- (a) Towers shall be either a permitted use on Town owned lot or a special exception use in the Town's commercial districts, provided approval is granted by the Architectural Commission and landmark commission, whichever is pertinent.
- (b) Antennas shall be a permitted use on all Town owned lot and in all the Town's commercial, R-D(1), R-D(2) and PUD-A districts, provided approval is granted by the Architectural Commission or landmark commission, whichever is pertinent. In addition, antennas shall be a permitted use for all private clubs in the R-AA, R-A and R-B districts provided said antennas are set back a minimum of 50 feet from all lot lines; and provided approval is granted by the Architectural Commission or landmark commission, whichever is pertinent. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

Sec. 134-139 Inventory of Existing Sites.

Each applicant for an antenna or tower shall provide to the structure official an inventory of his existing towers, antennas, or sites approved for towers or antennas that are either within the jurisdiction of the Town or within one mile of the border thereof, including specific information about the location, height, and design of each tower.

Sec. 134-140 Multiple Antenna/Tower Plan.

So as to lessen proliferation, the Town encourages the users of towers and antennas to submit a single application for approval of multiple users on a single site. Applications for approval of multiple user sites shall be given priority in the review process.

Sec. 134-141 Franchises.

Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Town have been obtained and shall file a copy of all required franchises with the structure official.

Sec. 134-142 Signs.

No signs shall be allowed on an antenna or tower.

Sec. 134-143 Removal of Abandoned Antennas and Towers.

Any antenna or tower that is not operated for a continuous period of two years shall be considered abandoned, and the owner of such antenna or tower shall remove the antenna or tower within 90 days of receipt of notice from the Town notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within such 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, this section shall not become effective until all users cease using the tower.

Sec. 134-144 Permitted Uses.

The uses listed in this section are deemed to be permitted uses and shall not require special exception approval. An antenna or tower located on lot owned, leased, or otherwise controlled by the Town is a permitted use, provided:

- (a) A license or lease authorizing an antenna or tower has been approved by the Town Council.
- (b) Prior to the granting of a building permit for the construction of a tower, a duly noticed and advertised public hearing shall be required by the Town Council. Such due notice and advertisement of the public hearing shall be provided as in subsections 134-172(c) through (f), except that lot owner notification shall be to all lot owners within one thousand feet (1,000') from any part of the subject lot on which the tower is located. These notice and public hearing requirements shall not pertain to the placement of antennas.

Sec. 134-145 Reserved.

Subdivision II. - Special Exception Uses, Requirements

Sec. 134-146 Criteria for Review and Approval of Applications.

The following shall govern the review and approval of special exception applications for towers by the Town Council:

- (a) If the tower is not a permitted use, special exception approval for towers shall be allowed for the construction of a tower only in the commercial districts.
- (b) Applications for special exception approval under this section shall be subject to the procedures and requirements of divisions 3 and 4 of article II of this chapter, except as modified in this section.
- (c) In granting a special exception approval, the Town Council may impose conditions to the extent the Town Council concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining lots.
- (d) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a state-licensed professional engineer.
- (e) An applicant for a special exception use shall submit the information described in this section and a nonrefundable fee as established in the fee schedule in section 134-38 to reimburse the Town for the costs of reviewing and providing legal notice for the application.

Sec. 134-147 Information Required.

In addition to any information required for applications for special exception use approval pursuant to divisions 3 and 4 of article II of this chapter, applicants for a special exception for a tower shall submit the following information:

- (a) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning including when adjacent to other municipalities, comprehensive plan future land use designation of the site and all lots within the applicable separation distances set forth in section 134-2066, adjacent roadways, proposed means of access, setbacks from lot lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the structure official to be necessary to assess compliance with this division.

- (b) Legal description of the parent tract and leased lot, if applicable.
- (c) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned lots, and unplatted residentially zoned lots.
- (d) The separation distance from other towers described in the inventory of existing sites submitted pursuant to section 134-2030 shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower and the owner/operator of the existing tower, if known.
- (e) A landscape plan showing specific landscape materials.
- (f) Method of providing security enclosure and finished color and, if applicable, the method of providing stealth design and illumination.
- (g) A description of compliance with all applicable federal, state or local laws including all sections of this chapter.
- (h) A notarized statement by the applicant's engineer as to whether construction of the tower will accommodate co-location of additional antennas for future users.
- (i) Identification of the entities providing the backhaul network for the tower described in the application and other cellular sites owned or operated by the applicant in the Town.
- (j) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
- (k) A description of the feasible locations of future towers within the Town based upon existing physical, engineering, technological or geographical limitations if the proposed tower is erected.

Sec. 134-148 Factors Considered in Granting Special Exception Approval.

In addition to any standards for consideration of special exception applications pursuant to divisions 3 and 4 of article II of this chapter, the Town Council shall consider the following factors in determining whether to approve a special exception:

- (a) Height of the proposed tower;
- (b) Proximity of the tower to residential structures and residential district boundaries;
- (c) Nature of uses on adjacent and nearby lots;
- (d) Surrounding topography;
- (e) Surrounding tree coverage and foliage;
- (f) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (g) Proposed ingress and egress; and

- (h) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in section 134-2064.

Sec. 134-149 Availability of Suitable Existing Towers, Other Structures or Alternative Technology.

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town Council that no reasonable alternative technology exists that can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Town Council related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (a) No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
- (b) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- (c) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
- (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antennas on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (e) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- (f) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (g) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

Sec. 134-150 Setbacks.

The following setback requirements shall apply to all towers for which a special exception is required:

- (a) Towers must be set back a distance equal to at least 110 percent of the height of the tower from any adjoining commercially zoned lot lot line.
- (b) Towers must be set back a distance equal to at least 130 percent of the height of the tower from any adjoining residentially zoned lot lot line.

- (c) Guys and accessory structures must satisfy the minimum district setback requirements.

Sec. 134-151 Separation.

- (a) **Applicability.** The separation requirements in this section shall apply to all towers for which a special exception approval is required.
- (b) **Separation distances between towers.** Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in table 1 as follows:

INSERT TABLE

Sec. 134-152 Security Enclosure.

Towers shall be enclosed with a security enclosure not less than six feet in height, and the towers shall also be equipped with an appropriate anticlimbing device.

Sec. 134-153 Landscaping.

The following requirements shall govern the landscaping surrounding towers for which a special exception is required:

- (a) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from lot used for residences. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound. The minimum landscaping within the buffer shall be a continuous four-foot-high hedge at the time of planting and an ultimate height of six feet and one tree, 12 feet in height at the time of planting, every 25 linear feet.
- (b) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the lot perimeter may be sufficient buffer.

Sec. 134-154 Nonconforming uses.

- (a) **Expansion.** Towers that are constructed and antennas that are installed in accordance with this division shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (b) **Preexisting towers.** Preexisting towers shall be allowed to continue their usage as they exist pursuant to section 134-2028(b). Routine maintenance, including replacement with a new tower of like construction and height, shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this division.
- (c) **Restructure damaged or destroyed nonconforming towers or antennas.** Nonconforming towers and antennas that are damaged or destroyed shall be required to meet the requirements as set forth in article IV of this chapter pertaining to nonconformities.

Sec. 134-155 Reserved.

Subdivision III. - Requirements

Sec. 134-156 State or Federal Requirements.

All towers/antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the owners of the towers and antennas governed by this division shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

Sec. 134-157 Aesthetics.

Towers and antennas shall meet the following requirements:

- (a) Towers shall either be maintained with a galvanized steel finish or, subject to any applicable standards of the FAA, shall be painted a color so as to reduce visual obtrusiveness.
- (b) At a tower or antenna site, the design of the structures and related structures shall, to the maximum extent possible, have materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding structures. The towers, antennas, structures and related structures shall require approval by the landmark or Architectural Commission, whichever is applicable.
- (c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be, to the maximum extent possible, of stealth design.

Sec. 134-158 Lighting.

Towers/antennas shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

Sec. 134-159 Construction Standards.

Prior to the issuance of a building permit to construct an antenna or tower, the owner/applicant shall provide the Town with all applicable approvals from federal, state and county agencies. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local structure codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Town engineer or his designee concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or lot, upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into

compliance within 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

Sec. 134-160 Measurement of Setbacks and Separation Distances.

Measurement of tower setbacks and separation distances shall be calculated and applied in relation to all adjacent facilities, whether located inside or outside the boundaries of in the Town.

Sec. 134-161 Compliance with Division.

Towers and antennas shall be regulated and permitted pursuant to this division and shall not be regulated or permitted as essential services, public utilities or private utilities.

Sec. 134-162 Equipment Storage; Location.

Antennas mounted on structures or rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:

- (a) The cabinet or structure shall not contain more than three hundred fifty (350) square feet of gross floor area or be more than ten feet in overall height, assuming at all times that a structural engineer has declared that the structural integrity of the structure or rooftop will not be compromised by the cabinet or structure.

 - (1) If the equipment structure is located on the roof of a structure, the area of the equipment structure and other equipment and structures shall not occupy more than ten percent of the roof area.
 - (2) Equipment storage structures or cabinets shall comply with all applicable structure codes.
- (b) Antennas mounted on utility poles or light poles. Antennas shall be prohibited on utility or light poles.
- (c) Antennas located on towers. The related unmanned equipment structure shall not contain more than three hundred fifty (350) square feet of gross floor area or be more than twelve feet (12') in overall height and shall be located in accordance with the minimum yard requirements of the district in which located.

Distribution Electric Substations

Sec. 134-163 Purpose and Intent.

- (a) The purpose of these distribution electric substation regulations is to ensure that any proposed new substation is in an appropriate location and that any new construction, upgrade, or expansion of a distribution electric substation is regulated as to setbacks, landscaping, buffering, screening, lighting and other aesthetic compatibility issues. New distribution electric substations shall be a special exception use in all districts, except the conservation district where such use is prohibited.

Sec. 134-164 Review and Approval.

- (a) Distribution electric substations shall be reviewed by the Director for compliance with the applicable setback, landscaping, buffering, screening, lighting, and other established aesthetic compatibility-based standards, as well as conflicts with existing and proposed utilities. A utility requesting to construct a new electric substation within the Town shall submit a special exception with site plan review application as required within this Code.
- (b) The Town Council shall grant or deny the application for the special exception with site plan review to construct a distribution electric substation. In determining whether to grant or deny the application, the Town Council shall review the plan and the comments of the planning, zoning and structure department and determine whether the proposed development plan is complete and complies with the requirements of these regulations and the purpose and intent in the code.
- (c) The issuance of a permit to locate a new distribution electric substation does not relieve the applicant from complying with applicable federal or state laws or regulations and other applicable local land development, right-of-way or structure regulations. The time schedule set forth in this section may be modified as agreed to in writing between the applicant and the Town manager.

Sec. 134-165 Setbacks and Buffers.

- (a) There shall be a minimum fifty foot (50') setback from all lot lines for any structure, structure or equipment on the substation lot.
- (b) There shall be a minimum one hundred foot (100') separation between any structure, structure or equipment on the substation lot and adjacent or abutting residential dwelling, of which a twenty-five foot (25') wide portion shall be an open green space buffer. Said landscape material, size, quantity and location shall be reviewed and approved by the Architectural Commission.
- (c) There shall be a minimum fifty-five percent (55%) landscape open space of which eighty percent (80%) percent is required to be perimeter landscaping within twenty-five feet (25') of the lot line.

- (d) There shall be a security and buffer wall of not less than eight feet (8') high and not more than fourteen feet (14') high erected and maintained around the perimeter of the substation. In addition, a minimum eight-foot (8') high hedge, not more than four feet (4') from said security and buffering wall shall be required between said wall and lot line. Said wall's material and design shall be required to be reviewed and approved by the Architectural Commission.
- (e) An automated irrigation system shall be installed and maintained for all required landscape improvements.
- (f) Regular landscape maintenance (i.e. mowing, edging, mulching, weeding, pruning, trimming, fertilizing, replacement of dead, dying or diseased plant materials and other necessary plant and lot maintenance) shall be performed in addition to the standard routine maintenance of the substation, substation structures and equipment, the buffer wall, and the open green space.

Sec. 134-166 Substation Site Selection.

- (a) Prior to submitting an application for a special exception with site plan review for a new electric substation, an applicant shall provide the Director with a preferred site justification statement, legal description and survey, evidence of title, and other documents and data supporting the applicant's preferred site, together with the same documentation pertaining to not less than three available alternative sites ("site selection documents"), including sites within nonresidential areas that are technically and electrically capable of accommodating the load to be served.
- (b) After reviewing the complete site selection documents and consulting with the applicant on the proposed site and alternative sites, the Director shall make a recommendation to the Town Council as to the location of the substation. The recommendation of the Director shall be reviewed and either approved or denied by the Town Council within ninety (90) days of the submission of complete site selection documents by the applicant.
- (c) If the applicant disagrees with the Town's selection of an appropriate location, the selection of the substation site shall be submitted to mediation to be conducted pursuant to F.S. §§ 44.401—44.406, unless otherwise agreed to in writing by the parties, and the mediation shall be concluded within thirty (30) days after notice of intent to mediate is given by one of the parties, unless extended by written agreement by both the applicant and the Town. The 90-day time period within which the Town Council is required to render a final decision on the site location shall begin from the date a notice of intent to mediate the site selection issue is served by either the applicant or the Town, until the mediation is concluded, terminated, or an impasse is declared. The Town Council and the applicant may agree to waive or extend this 90-day time period. Upon rendition of a final decision by the Town Council, the applicant may pursue available legal remedies in accordance with state law, and the matter shall be considered on an expedited basis.

Condominium Hotels

Sec. 134-167 Purpose and Intent.

The purpose of this division is to provide general guidelines for the establishment of and conversion to condominium-hotels or condo-hotels.

Sec. 134-168 Requirements.

A condo-hotel shall satisfy the following requirements:

- (a)** All overnight resident units in a condo-hotel shall be considered transient accommodation units and not as a permanent residential unit.
- (b)** A central management operation (reservation system) shall be required as an integral part of the condo-hotel facility for the rental units.
- (c)** There shall be a lobby/front desk area that is internally oriented and must be operated as a hotel.
- (d)** A condo-hotel may be permitted in any district where a hotel is permitted, except for the C-RP district where condo-hotels shall not be permitted.
- (e)** A condo-hotel shall be allowed the same exterior signage as a traditional hotel facility.
- (f)** Overnight resident units in a condo-hotel may not be occupied by their owner for more than a total of six months in any consecutive 12-month period.
- (g)** The books and records of the condo-hotel pertaining to the rentals of each overnight resident unit in the condo-hotel or hotel facility shall be open for inspection by authorized representatives of the Town, upon reasonable notice, in order to confirm compliance with these regulations as allowed by general law.
- (h)** A conversion from hotel to condo-hotel shall not result in any new or expanded kitchen facilities in individual overnight resident units.

Medical Marijuana Treatment Centers and Dispensaries

[THIS SECTION HAS NOT BEEN REVIEWED AND WILL BE REVIEWED SEPARATELY. IT HAS BEEN COPIED AND PLACED HEREIN IN UNEDITED FORM PENDING REVIEW.]

Sec. 134-169 Prohibition.

Medical marijuana treatment centers and medical marijuana dispensaries are prohibited in all districts, however, should state law preempt the prohibition of said uses, said uses are only permitted in the C-TC district, subject to the development standards set forth below.

Sec. 134-170 Development Standards.

In addition to applicable regulations and requirements otherwise set forth in this Code, the following minimum standards and regulations shall apply to the development or use of lot for a medical marijuana treatment center or medical marijuana dispensary. Such standards shall be met regardless of the existence of lesser standards that may be imposed by other agencies of government. The Town Council may impose additional conditions or safeguards as deemed necessary.

- (a)** No medical marijuana treatment center or dispensary shall be located within one thousand feet (1,000') of any school, house of worship, child care facility, municipal park or substance abuse treatment facility licensed by the Florida Department of Children and Families pursuant to Rule 65D-30, or within two-thousand five hundred feet (2,500') of another medical marijuana treatment center or dispensary, or within one hundred feet (100') of residentially zoned lot within the Town limits, as further defined by these regulations. Distances shall be measured by drawing a straight line between the closest point of the medical marijuana treatment center/dispensary structure to the closest lot line or tenant space (whichever is closer) of a school, house of worship, childcare facility, public park, resource recovery/addiction treatment facility, or other medical marijuana treatment center or dispensary residentially zoned lot.
- (b)** Any off-street parking demand created by a medical marijuana treatment center / dispensary shall not exceed the parking spaces located or allocated on site, as required by section 134-2176. An applicant shall be required to demonstrate that on-site traffic and parking attributable to the medical marijuana treatment center/dispensary will be sufficient to accommodate traffic and parking demands generated by the medical marijuana treatment center/dispensary, based upon a current traffic and parking analysis prepared by a certified professional.
- (c)** Any medical marijuana treatment center/dispensary shall be validly registered with the State of Florida, as required, and with the Town, and shall prominently display in a public area near its main entrance copies of all state licenses, Town registration and local business tax receipt, and the name of the owner and designated physician responsible for compliance with State and Town regulations. A medical marijuana treatment center/dispensary shall register with the Town by completing and submitting to the Director a registration form and operational plan, including security measures, for review and

approval by the Town prior to issuance of the Town registration and business tax receipts. The operational plan shall be reviewed annually prior to renewal of the registration and business tax receipt to ensure that it adequately addresses concerns of the Town, including security, parking, loitering, etc.

- (d)** The on-site sale, provision or dispensing of controlled substances (other than those types of marijuana approved for sale by the department of health or its successor agency) at a medical marijuana treatment center/dispensary shall be prohibited except as is specifically set forth in applicable federal or state law.
- (e)** No consumption of marijuana or alcoholic beverages shall be allowed on the lot, including in the parking areas, sidewalks or rights-of-way. In addition, no consumption of marijuana or alcoholic beverage shall be allowed on neighboring parking areas, sidewalks or right-of-way. The persons responsible for the operation of the medical marijuana treatment center / dispensary shall take all necessary and immediate steps possible to ensure compliance with this subsection.
- (f)** A medical marijuana treatment center/dispensary shall provide adequate seating for its qualified patients and care givers and shall not allow qualified patients or care givers, to stand, sit (including in a parked car), or gather or loiter outside of the structure where the treatment center/dispensary operates, including in any parking areas, sidewalks, right-of-way, or neighboring lots for any period of time longer than that reasonably required to arrive and depart. In addition, no other visitors or business invitees shall be permitted on the lot per (15)c of this division and said person(s) shall not be allowed to loiter in any parking areas, sidewalks, right-of-way or neighboring lots for any period of time. The medical marijuana treatment center/dispensary shall post conspicuous signs on at least three sides of the structure that no loitering is allowed on the lot.
- (g)** he persons responsible for the operation of the medical marijuana treatment center/ dispensary shall ensure that there is no queuing of vehicles in the rights-of-way. The persons responsible for the operation of the medical marijuana treatment center / dispensary shall take all necessary and immediate steps to ensure compliance with this subsection.
- (h)** No medical marijuana treatment center / dispensary shall have a drive-thru or drive-in service aisle. All dispensing, payment and receipt of said marijuana shall occur from inside the medical marijuana treatment center / dispensary. No medical marijuana treatment center or dispensary shall conduct any form of off-site delivery service of medical marijuana prescriptions.
- (i)** A medical marijuana treatment center / dispensary may operate only Monday through Friday and only during the hours of 8:00 a.m. to 6:00 p.m.
- (j)** A medical marijuana treatment center / dispensary shall at all times be in compliance with all federal and state laws and regulations and the Town of Palm Beach Code.
- (k)** Any application for a business tax receipt as a medical marijuana treatment center / dispensary as defined in section 1-2, shall be accompanied by an executed affidavit certifying registration with the State of Florida and the Town of Palm Beach as a medical marijuana treatment center / dispensary. The failure of an applicant to identify the business

in the application for a business tax receipt as a medical marijuana treatment center / dispensary will result in immediate expiration of the business tax receipt and immediate ceasing of all activity conducted in the medical marijuana treatment center / dispensary.

- (l)** Non-medical marijuana sales, including the purchase, sale, transfer or delivery or marijuana, cannabis, cannabis-based products or cannabis plants when such sale, transfer or delivery is not associated with any medical purpose or use, whether or not such purchase, sale, transfer or delivery is lawful under federal or state law, shall be prohibited uses in all districts.
- (m)** Cannabis cultivation shall be a prohibited use in all districts of the Town.
- (n)** Medical marijuana treatment centers and dispensaries shall be situated on real lot meeting the following requirements:

 - (1)** The minimum lot size shall be 20,000 square feet.
 - (2)** Medical marijuana treatment centers and dispensaries shall have frontage on a collector or arterial roadway.
 - (3)** A medical marijuana treatment center and dispensary shall only be operated from a freestanding structure that is not part of a larger commercial plaza, retail center, or multi-tenant structure.
 - (4)** Structure architecture, including structure color, shall be harmonious with surrounding lots.
 - (5)** Consistent with article XI, signs, of this chapter.
- (o)** Security measures shall be taken by the owner/operator, including but not limited to: a. A monitored alarm system and/or panic buttons shall be installed in the interior of the structure. b. A uniformed armed security guard shall be on the lot at all times the dispensary is open for business. The security guard/officer must be insured and licensed with the State of Florida possessing the minimum of an active and valid Class "D" and a Class "G" license as per F.S. § 493.6301. c. Only qualified registered patients per department of health definitions and personal caregivers, employees of the business, or Town and state and any other applicable governmental staff members, shall be permitted inside the proposed business. d. Town staff shall be granted right of entry at all times to ensure compliance with the requirements of this division 18.
- (p)** No medical marijuana treatment center or dispensary shall sell, market, dispense, provide, exchange, or otherwise vend any other services, product, or drug paraphernalia as defined by federal or state law. In addition, no medical marijuana dispensary or doctors, physicians, agents, employees, representatives, contractors, or the like shall provide any other medical, social, or psychological counseling, diagnosis or advice to any patient or business invitee.

ARTICLE IV: NONCONFORMITIES



TOWN OF PALM BEACH, FLORIDA

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Nonconformities

Sec. 134-171 Purpose and Intent.

The purpose of the nonconformities section is to provide for the continuation, modification, or eventual elimination of nonconforming uses, structures, and structures in accordance with the standards and conditions herein. While nonconformities may continue, the provisions of this article are designed to encourage the improvement or elimination of nonconformities in order to better achieve the purposes of this zoning code.

Sec. 134-172 Nonconforming Uses.**(a) Continuation; definition; intent.**

- (1)** A use lawfully in existence as of the effective date of this Code, or any amendment thereto may be continued except as otherwise provided in this article.
- (2)** A use is a nonconforming use if the use or any physical characteristics of the use are not in full compliance with all regulations of the district in which it is located.
- (3)** By the provisions of this chapter, as amended, there may exist uses and characteristics of use which were lawful or unrestricted before this chapter was adopted or amended and which would be prohibited, regulated, or restricted under the terms of this chapter or amendments thereto. It is the intent of this article to permit these nonconforming uses to continue until they are voluntarily removed by abandonment, or otherwise removed as required by this Code.
- (4)** It is further the intent of this article that nonconforming uses shall not be enlarged upon, expanded, intensified, or extended, or be used as grounds for adding other uses prohibited elsewhere in the same district.

(b) Extension or expansion. No nonconforming use shall be enlarged, increased, intensified, substituted, or extended to occupy a greater area than it occupied at the effective date of adoption or amendment of this chapter. No such nonconforming use shall be relocated in whole or in part to any portion of a lot except the location occupied by such use at the effective date of adoption or amendment of this chapter.

(c) Conversion to permitted use. Any nonconforming use which is replaced by a permitted use shall thereafter conform to the regulations of the district in which such use is located, and shall be prima facie evidence of the lot owner's intent to abandon the prior nonconforming use and such nonconforming use shall be forever terminated.

(d) Special exception uses. Any use which is permitted by the Town Council as a special exception shall not be deemed a nonconforming use in such district except if the special exception use is no longer on the list of special exceptions, in which case, the approved special exception use shall become a nonconforming use.

(e) Alterations and repairs. Normal maintenance, repair, and alteration of a structure containing a nonconforming use is permitted, provided it does not extend the area or volume of space occupied by the nonconforming use.

- (f) **Abandonment.** A nonconforming use is terminated when the owner of the lot discontinues the use with no intention to resume the use. Any use that is discontinued for a period of two years or longer is presumed to have been abandoned unless such presumption is rebutted by clear and convincing evidence provided by the owner that it was not intended to be abandoned.
- (g) **Destruction or partial destruction.** When 50 percent (50%) or more of the existing floor area of a nonconforming structure or structure occupied by a nonconforming use is unintentionally damaged or destroyed, such as by an act of terrorism or war or fire or other casualty, or act of God or nature, or the unintentional acts or omissions of the owner thereof, the use of such structure or structure as a nonconforming use shall immediately be terminated. If a Town-designated landmark which contains a nonconforming use is destroyed by fire or other casualty or act of God, to the extent of more than 50 percent (50%) as determined by floor area prior to its destruction, such designated landmark may be reconstructed in its original location to its original size and configuration and the nonconforming use may continue.
- (h) **Regulation of existing nonconforming commercial uses.** Any existing uses contained on the list of permitted uses under subsection (a)(2) of this section which contain more than three thousand (3,000) square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses (refer to division 2 of article IV of this chapter). However, all future changes of use shall be limited to those uses listed as permitted uses in subsection (a) of this section with a maximum gross leasable area of three thousand (3,000) square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, or from one generic use (residential, commercial, public/private group use) to another, wherein the new use will involve a gross leasable area exceeding three thousand (3,000) square feet, the contemplated new use shall be subject to prior approval of a special exception application by the Town Council before the change is made (refer to sections XYZ through XYZ pertaining to special exception uses). In effect, this will allow any existing use over three thousand (3,000) square feet, in a district with a three thousand (3,000) square foot limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without Town Council approval. No existing commercial use which is subject to the three thousand (3,000) square feet maximum gross leasable area (GLA) regulation may occupy additional space within one thousands five hundred feet (1,500') of the existing licensed businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than three thousand (3,000) square feet.

Sec. 134-173 Nonconforming Structures.

- (a) **Continuation; definition; intent.**
 - (1) A structure or structure, lawfully in existence at the effective date of this chapter, which shall be made nonconforming at the passage of this chapter, as amended, may be continued except as otherwise provided in this article.

- (2) A structure or structure is nonconforming if the structure or structure or any physical characteristics thereof is not in full compliance with all regulations of the district in which it is located.
 - (3) Town-owned municipal structures and structures which are at least 50 years old shall be exempt from this article.
 - (4) There may exist structures or structures which were lawful before this chapter was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments thereto. It is the intent of this chapter to permit these nonconforming structures and structures to exist until they are voluntarily removed by abandonment, or otherwise removed as required by this chapter.
- (b) **Extension or expansion.** A structure or structure which is nonconforming with any of the lot, yard and bulk, regulations may be enlarged, expanded, or extended to occupy a greater area of land provided that the enlargement, expansion, or extension complies with all lot, yard, and bulk regulations for the district in which the structure or structure is located. This section shall not apply to a structure or structure which is demolished by more than fifty percent (50%), as provided for herein, in preparation for any proposed enlargement, expansion, or extension of a structure or structure.
- (c) **Conversion to conforming structure or structure.** Any nonconforming structure or structure which is altered, changed, or replaced by a conforming structure or structure shall thereafter conform to the regulations of the district in which such use is located, and shall be prima facie evidence of the lot owner's intent to abandon the prior nonconforming structure or structure and such nonconforming structure or structure shall be forever terminated.
- (d) **Restoration, demolition, enlargement, extension, expansion, reconstruction, alteration or repair.** No nonconforming structure or structure shall be enlarged, extended, reconstructed, or structurally altered except, as expressly provided for herein, or when required to do so by law in accordance with the following:
- (1) Voluntary demolition, restoration, and reconstruction. A nonconforming structure and/or structure may be demolished, restored, enlarged, extended, expanded, and reconstructed provided that such demolition, restoration, enlargement, extension, expansion, or reconstruction does not result in either of the following occurring within five years of passing a final inspection:
 - a. The loss of more than fifty percent (50%) of the area of an exterior wall, including fixed windows, on an entire north, south, east, or west elevation; or
 - b. The loss of more than fifty percent (50%) of the roof truss area (with all of the roof measured as though flat).
 - (2) In addition, any enlargement, extension, expansion, or reconstruction of a nonconforming structure or structure is required to meet applicable lot, yard, and bulk regulations in this chapter.

- (3) All demolition, restoration, enlargement, extension, expansion, or reconstruction shall be completed within the time schedule set forth in the construction schedule section 105.4.1.6 of the Florida Structure Code. In the event such demolition, restoration, enlargement, extension, expansion, or reconstruction is not completed within the timeframe required by the same, construction shall cease and shall not resume until the Town Council decides the remedy for noncompliance, and review and approves a completion schedule.
- (e) **Alteration and repairs.** Normal maintenance and repair and incidental alteration of a nonconforming structure or structure is permitted, provided it does not increase the area, volume, or size of the structure or structure. Replacement of only operable windows and/or doors exceeding the parameter in (1)a and b above is permitted provided the openings of such windows and/or doors are not enlarged. A structure used for single-unit or multi-unit residential purposes may be altered in any way to improve interior livability; provided, however, that no alterations shall be made which would increase the number of dwelling units. Single-unit dwellings may be enlarged or partially demolished.
- (f) **Minimum flood elevation.** A nonconforming structure may be raised to meet, but not exceed by more than ten percent (10%), the minimum Town flood elevation if all of the following conditions are met:
 - (1) There is no increase in height as measured from the raised finished floor to the bottom of the top chord of the roof framing member for a pitched roof and the ceiling of a flat roof does not get any taller;
 - (2) There is no increase in overall height as measured from the raised finished floor elevation to the top of the roof for pitched roof, and top of the ceiling and parapet for a flat roof is not any taller;
 - (3) The structure footprint within the required setbacks is no larger, and is no closer to the lot line than it was prior to being raised; and
 - (4) Any new additions shall meet existing lot, yard, and bulk regulations.

Sec. 134-174 Unintentional Damage or Destruction or Partial Destruction.

- (a) Any nonconforming structure or structure which is unintentionally damaged or destroyed, such as by an act of terrorism or war or fire or other casualty, act of God or nature, or the unintentional acts or omissions of the owner thereof, can be reconstructed in its original location to its original size and configuration provided that the lot owner of said structure or structure (i) commences with reasonable promptness following such damage or destruction to obtain the necessary permits and approvals for such reconstruction and thereafter continues with reasonable diligence to obtain such permits and approvals, and (ii) begins construction within five years of said unintentional damage or destruction and provided further that for residential use, the lot does not exceed the existing density and for commercial use it does not exceed the existing or allowed intensity and/or density by Code. In addition, if said structure or structure did not meet the Town's minimum flood elevation requirements, the rebuilt structure or structure shall be raised to meet said requirements if required by law.

- (b)** If a nonconforming structure or structure is located partially or entirely east of the coastal construction control line, said structure or structure may be rebuilt in its original location to its original location, size and configuration, density and/or intensity provided it meets all state and federal requirements for a structure and/or structure located east of the coastal construction control line.
- (c) Development and redevelopment of nonconforming residential lots.**

 - (1)** Vacant land located in any district which does not conform to the minimum requirements of lot dimension or lot area as required by the schedule of lot, yard, and bulk regulations for the district in which it is located may be developed or redeveloped as allowed in subsections (b) and (c) below provided that multi-unit residential use and single-unit residential use does not exceed the maximum density allowed for the site as set forth in this chapter. Development of a single-unit residential dwelling unit on a vacant residentially zoned lot which has existed in the same configuration for a minimum of thirty (30) years is allowed subject to subsection (b) or (c), as applicable.
 - (2)** An existing lot which does not conform to the requirements of lot dimension or lot area requirements in any district other than the R-AA, R-A, or R-B districts, shall be subject to an application to the Town Council for a variance. A variance to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the Town Council until the Architectural Commission has completed review of the project.
 - (3)** An existing lot which does not conform to the requirements of lot dimension or lot area requirements in the R-AA, R-A, or R-B districts shall be subject to an application to the Town Council for special exception and/or site plan review. A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the Town Council until the Architectural Commission has completed review of the project.
- (d)** In no event shall a new lot be established that does not meet the minimum lot area or dimension requirements set forth in this Code.

ARTICLE V: ADMINISTRATION AND PROCEDURES



TOWN OF PALM BEACH, FLORIDA

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Decision-making Authority

Sec. 134-175 Decision-making Authority.

This Code is enforced by the Director, who makes administrative determinations under this Code as more fully set forth herein.

- (a)** The Director determines the following:
 - (1)** Completeness and perfection of an application made pursuant to this Code.
 - (2)** Interpretations of this Code.
 - (3)** Similar use determinations.
 - (4)** Building permit determinations and issuance.
 - (5)** Certificate of occupancy determinations and issuance.
- (b)** The Town Council serves in a legislative and a quasi-judicial capacity relative to this Code. The Town Council determines the following:
 - (1)** Code text amendments.
 - (2)** Zoning Map amendments.
 - (3)** Site plan determinations.
 - (4)** Special exception determinations.
 - (5)** Variance determinations.
 - (6)** Appeals from decisions of the Director.
- (c)** The Planning and Zoning Commission advises Town Council on all Town Council determinations.
- (d)** For Architectural Commission decision-making authority, see Chapter 18 of the Code of Ordinances.
- (e)** For Landmarks Preservation Commiccion decision-making authority, see Chapter 54 of the Town of Palm Beach Code Ordinances.

Sec. 134-176 Applications.

- (a)** All applications hereunder shall be made by the fee title owner of the subject lot, or their authorized designee, agent, or representative by power of attorney filed with the Director.
- (b)** Applications pursuant to this Code shall be completed and submitted per the application instructions and shall include all items identified in the application checklist, which may be amended by the Director from time to time. All applications shall include the application

fee as set forth in the Town's Fee Schedule, which may be amended by Town Council from time to time.

- (c) The fees identified in the Town's Fee Schedule do not include additional fees that may be charged to the applicant for all costs associated with the Town's use of a consultant or legal representation for analysis, study, and report of any application determined by the Director requiring such review.
- (d) The Director shall review the application and required documents and determine whether it is competent and complete. If the Director determines that the application is not competent or complete, they shall notify the applicant in writing as to the nature of the deficiency. In this case, no other action shall be taken on the application until all deficiencies are remedied.
- (e) Upon the Director's determination that an application is competent and complete, the application will be processed and reviewed.
- (f) The Director shall maintain a record of all applications for permits with accompanying plans and documents and shall make such reports to the Planning and Zoning Commission and/or Town Council as may be required or desired.

Sec. 134-177 Hearings.

- (a) The Director shall produce annually a schedule of public meetings and deadlines for all development review applications, which may be amended from time to time. The Director shall place the schedule of meetings and deadlines on the Town's official website, www.Townofpalmbeach.com.
- (b) Public hearings for all development review projects shall be noticed in accordance with the following provisions:
 - (1) At least thirty (30) days prior to the public hearing date, the Director will cause to be published in a newspaper of general circulation a description of the project or request, the date, start time of the meeting and location of the hearing.
 - (2) At least thirty (30) days prior to the public hearing date, the applicant shall mail a notice containing a description of the request, the date, start time of the meeting and location of the hearing, to the owners of record of lot lying within three hundred feet (300') of the lot subject to the application. Applicants shall submit all information and certifications necessary to meet this requirement, as determined by the Director and set forth in the application instructions.
- (c) If a variance is requested from the minimum off-street parking requirements, the notification distance shall increase to one thousand feet (1,000').
- (d) If a special exception application is being requested for any use deemed by the Director to be an intensification of use on a lot, the notification distance shall increase to seven hundred fifty feet (750') For purposes hereof, intensification of use shall include, but not be limited to, increased tenant square footage, increased seating, increased off-street parking demand, and increased hours of operation of a special exception use, in the Director's discretion.

- (e) At least thirty (30) days prior to the public hearing, the Town will post a copy of the hearing notice within a conspicuous place in Town Hall.
- (f) Upon written request at least seven (7) days prior to a scheduled Town Council hearing date, the Town Council may grant a one-month deferment, or to the next succeeding regular Town Council meeting if that should occur on a different date. Any deferment request received seven (7) days or less from the scheduled meeting date, or any second request, shall be made in person at the Town Council meeting at the time the action item appears on the agenda. The applicant must explain or justify the request, which the Town Council may approve or deny. Subsequent requests for deferral shall be denied unless the applicant can demonstrate to the Town Council that a compelling reason exists. Any deferral which is required due to a case being deferred by the Architectural Commission or Landmark Preservation Commission shall be an exception hereto. In no case shall a deferral exceed six months from the originally scheduled hearing date.
- (g) An application request seeking substantially the same relief that has been previously denied by Town Council is barred for a period of 12 months following the date of the written denial.
- (h) The work or use authorized under an approved variance or special exception application must be commenced within thirty-six (36) months from the date of the Town Council approval thereof, and if not so commenced the unvested special exception or variance shall be deemed to have been voluntarily abandoned by the applicant and shall be automatically null and void and of no further force or effect. Commencement shall be considered at the issuance of a building permit for the work related to the application or a business tax receipt if no building permit is required.
- (i) A request for a time extension from any of the requirements herein may be granted or denied by the Town Council for just cause. Said time extension request shall be submitted in writing to the Director at least one (1) month prior to the expiration date or said unvested special exception or variance approval shall be deemed to have been voluntarily abandoned by applicant and shall be automatically null and void and of no further force or effect

Sec. 134-178 Required Permits and Certificates.

(a) Building permits.

- (1) No person shall erect, alter, or convert any structure or part thereof or alter the use of any lot unless and until a building permit has been issued by the Director.
- (2) No person shall use any structure or part thereof unless and until a certificate of occupancy has been issued by the Director.
- (3) All building permit applications shall be accompanied by two sets of plans, drawn to the requirements contained in the structure code of the Town. In addition, all building permit applications shall include a signed and sealed survey with all pertinent information including the location of historic/specimen trees. In addition to the survey, a detailed written explanation of how said trees shall be protected by barricading shall accompany said survey.

- (4) The Director shall issue a building permit upon determination that the structure, structure, signs, parking areas, and the proposed use conform with all requirements of this Code and that all other reviews and actions, if any, required by this Code have been complied with and all necessary approvals secured.
- (5) Every building permit, after issuance, shall be kept conspicuously on the lot affected and shall be protected from the weather whenever construction work is being performed on the lot. No owner, contractor, workman or other person shall perform any structure operation of any kind unless a building permit covering such operation has been displayed as required by this Code.
- (6) No owner, contractor, workman or other person shall perform structure operations of any kind after notification of the revocation of a building permit.
- (7) When the Director is not satisfied that the applicant's proposed development will meet the requirements of this Code, they shall refuse to issue a building permit, and the applicant may appeal to the Town Council for a reversal of the official's decision.
- (8) When zoning is in progress, no building permit shall be issued by the structure official that is in contravention of proposed amendments to this Code.

(b) Certificates of occupancy.

- (1) It shall be unlawful to use or permit the use of any structure or lot thereon created or erected, changed or converted, wholly or partly, in its use or structure until a certificate of occupancy to the effect that the structure or lot or part thereof and the proposed use thereof conform to this Code shall have been issued by the Director.
- (2) Under the rules and regulations of the Town, a temporary certificate of occupancy for a part of a structure may be issued by the Director.

(c) Revocation authority; Bonding

- (1) If it shall appear, at any time, to the Director that the application for a building permit or any accompanying plan is in any respect false or misleading or that work is being done upon the lot differing materially from that called for in the application for a building permit filed with them under existing laws or ordinances, the Director may forthwith revoke the building permit, whereupon it shall be the duty of the person holding the building permit to surrender it and all copies thereof to the Director.
- (2) After the building permit has been revoked, the Director may, in their discretion, before issuing the new building permit, require the applicant to file an indemnity bond in favor of the Town with sufficient surety conditioned for compliance with this Code and all laws and ordinances in force and in a sum sufficient to cover the cost of removing the structure or structure if it does not so comply.

Sec. 134-179 Violations.

- (a) **Complaints of violations.** Any person may file a complaint if there is any reason to believe a violation of this chapter exists. All such complaints must be in writing and shall be filed with the structure official, who shall properly record such complaint and immediately investigate.

- (b) **Procedures for abatement of violations.** If any structure or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if any structure, structure or land is used in violation of this chapter or of any ordinance or regulation made under authority conferred by this chapter, the Town Council or, with their approval, the structure official or other proper official, in addition to other remedies, may institute any appropriate legal action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct, or abate such violation; to prevent the occupancy of the structure, structure or land; or to prevent any illegal act, conduct, business or use about such lot.

Sec. 134-180 Violations and Penalties.

- (a) Violations of this chapter or failure to comply with any of the requirements of this chapter, including violations of conditions and safeguards established in connection with grants of variances, special exceptions or site plan reviews, shall constitute a zoning violation, and the violator shall be prosecuted under the provisions of article V of chapter 2 by the Town code enforcement board. Each day such violation continues shall be considered a separate offense.
- (b) The owner or tenant of any structure, structure, lot, or part thereof and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this section.
- (c) It shall be a violation of this chapter for any person to destroy, move, remove, or deface or obscure any sign or notice erected or posted by Town officials pursuant to the requirements of this chapter.
- (d) Nothing contained in this section shall prevent the Town from taking other lawful action necessary to prevent or remedy any violation of or failure to comply with the regulations contained in this chapter, including but not limited to the issuance of a citation pursuant to section 1-14 and/or the commencement of a civil action in a court of appropriate jurisdiction.

Sec. 134-181 Review by Town Council.

Within thirty (30) days of receipt of the application for site plan review, the Town Council shall review and consider the application. Before any site plan shall be approved, approved with changes, or denied, the Town Council shall make a finding that the approval of the site plan will or will not adversely affect the public interest and certify that the specific zoning requirements governing the individual use have or have not been met and that, further, satisfactory provision and an arrangement has or has not been made concerning the following matters, where applicable:

- (a) Sufficiency of statements on ownership and control of the subject lot and sufficiency of conditions of ownership or control, use and permanent maintenance of common open space, common facilities or common lands to ensure preservation of such lands and facilities for their intended purpose and to ensure that such common facilities will not become a future liability for the Town.

- (b) Intensity of use and/or purpose of the proposed development in relation to adjacent and nearby lots and the effect thereon; provided, however, that nothing in this subsection shall be construed as granting the Town Council the authority to reduce residential densities below that permitted by the use regulations in article VI of this chapter.
- (c) Ingress and egress to the lot and the proposed structure thereof, with particular reference to automotive and pedestrian safety; separation of automotive traffic; traffic flow and control; provision of services and servicing of utilities and refuse collection; and access in case of fire, catastrophe or emergency.
- (d) Location and relationship of off-street parking and off-street loading facilities to thoroughfares and internal traffic patterns within the lot, with particular reference to automotive and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, and screening and landscaping.
- (e) Proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the lot boundaries.
- (f) Manner of drainage on the lot, with particular reference to the effect of provisions for drainage on adjacent and nearby lots and the consequences of such drainage on overall Town capacities.
- (g) Utilities, with reference to hook-in locations and availability and capacity for the uses projected.
- (h) Recreation facilities and open spaces, with attention to the size, location and development of the areas as to adequacy, effect on privacy of adjacent and nearby lots and uses within the lot, and relationship to communitywide open spaces and recreation facilities.
- (i) Such other standards as may be imposed by this chapter for the particular use or activity involved.
- (j) Height of commercial structures with reference to adjoining structures, the effect on uniformity in height, and the general principle of retaining the low profile scale of commercial architecture.
- (k) The proposed development should be so arranged that it minimizes the visible bulk of the structures to drivers and pedestrians on abutting roadways, the point of reference being the centerline of the abutting roadways, with the intent being to maintain visual impact of multistory structures at the same relative level of intensity as a single-story structure at the minimum required setback.

Sec. 134-182 Action by Town Council.

- (a) After review and preparation of the findings, the Town Council may approve, approve with changes, or deny the application for site plan review and direct the Director to approve or withhold approval of the building permit.
- (b) An approval of a site plan review application by the Town Council shall include, as a part thereof, all of the information and exhibits as required by this chapter. No subsequent deviation or change may be made from this information and the exhibits as approved by the Town Council in the implementation of the Town Council approval except upon new

application to and approval by the Town Council. The application shall include size, shape, style and location of structures, number of dwelling units, location of parking facilities, driveways, accessory uses and structures, landscaping concepts, and all other aspects of the proposed development germane to the site plan review. Any deviation will result in a stay of work until resolved.

Special Exceptions

Sec. 134-183 Special Exceptions.

- (a) The Town Council shall hear and decide special exceptions, decide such questions as are involved in determining if and when special exceptions should be granted, and grant special exceptions with appropriate conditions and safeguards or deny special exceptions when not in harmony with the purpose and intent of this Code.
- (b) In granting any special exceptions, the Town Council shall find that such grant will not adversely affect the public interest.
- (c) In granting any special exception, the Town Council, in addition to the standards enumerated in this subdivision, may prescribe appropriate conditions and safeguards in conformity with this Code.
- (d) Upon granting a special exception the Town Council may require the landowner to provide a declaration of use agreement which shall be recorded in the public records to ensure continuing compliance with Town Council imposed conditions of such grants.
- (e) Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Code.
- (f) The Town Council may prescribe a reasonable time limit within which the action for which the special exception is required shall begin or be completed or both.
- (g) Special exception uses and their related accessory uses or any expansion, enlargement, or modification of an existing special exception use or any physical expansion of an existing special use or facility shall be permitted only upon authorization by the Town Council, provided that such uses shall be found by the Town Council to comply with the requirements in this subdivision and other applicable requirements as set forth in this chapter. All special exception uses require site plan review in accordance with article III of this chapter. Additional standards applicable to planned unit developments are contained in article V of this chapter.
- (h) The requirements for granting a special exception use under this Code are as follows:
 - (1) The use is a permitted special exception use as set forth in article VI of this chapter.
 - (2) The use is so designed, located and proposed to be operated that the public health, safety, welfare and morals will be protected.
 - (3) The use will not cause substantial injury to the value of other lot in the neighborhood where it is to be located.
 - (4) The use will be compatible with adjoining development and the intended purpose of the district in which it is to be located.
 - (5) The use will comply with yard, other open space, and any special requirements set out in article VI for the particular use involved.
 - (6) The use will comply with all elements of the comprehensive plan.

- (7)** The use not result in substantial economic, noise, glare, or odor impacts on adjoining lots and lots generally in the district.
- (8)** Adequate ingress and egress to lot and proposed structures thereon and off-street parking and loading areas will be provided where required, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
- (9)** Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and economic impact shall be compatible and in harmony with lots in the district.
- (10)** Location, availability and compatibility of utility service for the use shall be satisfactory to ensure health and safety.
- (11)** Refuse and service areas for the use shall not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.
- (12)** If historic/specimen trees are located on the subject lot, the location of said historic/specimen trees shall be identified on a signed and sealed survey. In addition, adequate landscaping, screening and barricade protection of historic/specimen trees shall be demonstrated to be provided as required in this chapter.
- (13)** The proposed use will not place a greater burden than would be caused by a permitted use on municipal police services due to increased traffic or on fire protection services due to the existence of or increased potential for fire/safety code violations.
- (14)** Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and economic impact shall be compatible and in harmony with lots in the district.
- (15)** Location, availability and compatibility of utility service for the use shall be satisfactory to ensure health and safety.
- (16)** Refuse and service areas for the use shall not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.

- (17)** In all districts except the C-PG district, and also with the exception of hotel, motel and timeshare uses, the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the Town Council that not less than 50 percent (50%) of the customers of the proposed use will be Town persons. Evidence submitted in support of this contention shall include credible data or information suitable for review by the Town to determine the credibility and the appropriateness of the applicant's conclusion. The submittal shall include a description of the types of information used and the methodology employed to arrive at the conclusion. Information used shall include, but shall not be limited to, lists of customer/client addresses or certification thereof by an independent certified public accountant approved by the Town, market studies prepared by independent professional firms, or data from similar operations under the control of the applicant. The Town may in the future require the applicant to demonstrate to the satisfaction of the Town Council that the special exception use is continuing to be Town-serving.
- (18)** If historic/specimen trees are located on the subject lot, the location of said historic/specimen trees shall be identified on a signed and sealed survey. In addition, adequate landscaping, screening and barricade protection of historic/specimen trees shall be demonstrated to be provided as required in this chapter.
- (19)** The proposed use will not place a greater burden than would be caused by a permitted use on municipal police services due to increased traffic or on fire protection services due to the existence of or increased potential for fire/safety code violations.
- (20)** The use will comply with all elements of the comprehensive plan.
- (21)** The use not result in substantial economic, noise, glare, or odor impacts on adjoining lots and lots generally in the district.
- (22)** Adequate ingress and egress to lot and proposed structures thereon and off-street parking and loading areas will be provided where required, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
- (23)** Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and economic impact shall be compatible and in harmony with lots in the district.
- (24)** Location, availability and compatibility of utility service for the use shall be satisfactory to ensure health and safety.
- (25)** Refuse and service areas for the use shall not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.

- (26) In all districts except the C-PG district, and also with the exception of hotel uses, the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the Town Council that not less than 50 percent of the customers of the proposed use will be Town persons. Evidence submitted in support of this contention shall include credible data or information suitable for review by the Town to determine the credibility and the appropriateness of the applicant's conclusion. The submittal shall include a description of the types of information used and the methodology employed to arrive at the conclusion. Information used shall include, but shall not be limited to, lists of customer/client addresses or certification thereof by an independent certified public accountant approved by the Town, market studies prepared by independent professional firms, or data from similar operations under the control of the applicant. The Town may in the future require the applicant to demonstrate to the satisfaction of the Town Council that the special exception use is continuing to be Town-serving.
- (27) If historic/specimen trees are located on the subject lot, the location of said historic/specimen trees shall be identified on a signed and sealed survey. In addition, adequate landscaping, screening and barricade protection of historic/specimen trees shall be demonstrated to be provided as required in this chapter.
- (28) The proposed use will not place a greater burden than would be caused by a permitted use on municipal police services due to increased traffic or on fire protection services due to the existence of or increased potential for fire/safety code violations.

Sec. 134-184 Residential Use in C-TC, C-WA or C-PG District; One-Unit Use Above First Floor in C-TC, C-WA or C-RP District.

- (a) When any residential use is approved as a special exception use as provided for within the commercial districts, it shall conform to the lot, yard, and bulk regulations of the R-C district.
- (b) When a single-unit residential use is approved as a special exception use above the first floor within the commercial districts, the residential story shall conform to the lot, yard, and bulk requirements of the R-C district.

Sec. 134-185 Sec. 134-233. Applicability of Worth Avenue Design Guidelines in C-WA District.

- (a) Special exceptions in the C-WA district which involve special allowances pertaining to residential uses, height or coverage, shall be based upon the Worth Avenue Design Guidelines and contingent upon review and recommendation by the Architectural Commission.
- (b) The Architectural Commission, in order to make a positive recommendation, must make an affirmative finding that the proposed special exception is meritorious to the Town because of its general appearance and adherence to the Worth Avenue Design Guidelines located on the Town's website, www.townofpalmbeach.com.

- (c) The Worth Avenue Design Guidelines are incorporated and adopted as part of this chapter as if fully set forth in this section.

Sec. 134-186 Discontinuance or Abandonment of Use.

If an authorized or existing special exception use is discontinued for any period of time with the intention on the part of the owner to abandon such special exception use or if the use is discontinued for a period of two years without the intention of the owner to abandon, such shall be an abandonment thereof, and the special exception use shall thereby be immediately terminated and may not thereafter be revived except upon new application and approval by the Town Council

Variances & Administrative Waivers

Sec. 134-187 Variance Standards.

- (a) Upon application and a hearing as set forth herein, the Town Council may grant a variance from the dimensional regulations of this Code if such variance will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this Code will result in unnecessary and undue hardship, and upon an applicant demonstrating by credible evidence the following:

 - (1) Special conditions and circumstances exist which are peculiar to the lot or structure involved and which are not applicable to other lots or structures in the same district.
 - (2) The special conditions and circumstances do not result from the actions of the applicant.
 - (3) Granting the variance will not confer on the applicant any special privilege that is denied by this Code to other lots or structures in this same district.
 - (4) Literal interpretation of this Code would deprive the applicant of rights commonly enjoyed by other lots in the same district under the terms of this Code and would work unnecessary and undue hardship on the applicant.
 - (5) The variance granted is the minimum variance that will make possible the reasonable use of the lot or structure.
 - (6) The grant of the variance will be in harmony with the general intent and purpose of this Code, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- (b) In granting any variance, the Town Council may prescribe appropriate conditions and safeguards in conformity with this chapter.
- (c) Upon granting a variance the Town Council may require the landowner to provide a declaration of use agreement which shall be recorded in the public records to ensure continuing compliance with Town Council imposed conditions of such grants. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code.
- (d) The Town Council may prescribe a reasonable time limit within which the action for which the variance is required shall begin and/or be completed. Under no circumstances shall the Town Council grant a variance to permit a use not generally or by special exception permitted in the district involved or any use expressly or by implication prohibited by the terms of this Code in the district. No nonconforming use of neighboring lots or structures in the same district and no permitted use of lands, structures or structures in other districts shall be considered grounds for the authorization of a variance.

- (e) Use variances and density variances shall not be permitted.

Sec. 134-188 Sec. 134. Variances for Landmarked Lots.

All variance requests for landmarked structures shall be reviewed by the landmarks commission prior to review by Town Council and landmarks commission shall provide a non-binding recommendation to the Town Council for approval, denial, or approval with conditions.

- (a) Description of conditional dimensional waivers available for landmark structures. In addition to the variance standards above, the Landmark Preservation Commission may recommend, and the Town Council may grant, a variance as follows:
 - (1) Reduced setbacks for expansion of landmark structures. Reduced side and rear yard setbacks may be approved for the expansion of landmark structures, or the addition of permissible new structures, on a lot which contains a landmark structure if all of the following are demonstrated:
 - a. The setback does not violate any of the following conditions:
 - b. Front: Reduction can be up to 90 percent (90%) of underlying district requirement; provided, however that the front yard setback shall not be less than the lesser of the existing front yard setbacks of the principal structures on the lots immediately abutting the side lot lines of the lot for which the waiver is being requested.
 - c. Side: Reduction can be up to sixty-five percent (65%) of underlying district requirement; provided, however, that the side yard setback shall not be less than five feet (5').
 - d. Side street: Reduction can be up to sixty-five percent (65%) of underlying district requirement.
 - e. Rear: Reduction does not result in a rear yard setback of less than seven and one-half feet (7.50').
 - f. Rear street: Reduction does not result in a rear street yard setback of less than twenty feet (20').
 - (2) The proposed portion of structure or structure between the required setback and the reduced setback does not compromise the historic character of the landmark structure, due to one or more of the following:
 - a. A. The architecture and design of the additional structure or structure between the required setback and the reduced setback:
 - i. Is complimentary to the architecture of the landmark structure, while neither replicating the architecture nor fundamentally departing from it;
 - ii. Is such that the additional structure or structure appears subordinate to those parts of the landmark structure that materially contribute to its landmark status;
 - iii. Does not block public views of those parts of the landmarked structure that materially contribute to its landmark status; and

- iv. Allows for future removal of the additional structure or structure and restoration of the landmark structure to its existing design.
 - (b) The volume and footprint of the portion of the structure or structure between the required setback and the reduced setback is de minimus, and the character of the proposed structure or structure does not tend to distract the eye from the principal landmark structure.
 - (c) The portion of the additional structure or structure between the required setback and the reduced setback is completely screened from view from public rights-of-way by existing topography, existing walls, and/or existing landscaping that do not interfere with the historic character of the landmark structure.
 - (d) Reasonable alternative designs that are permitted by the strict requirements of the underlying district and result in the same cubic content ratio would detract from the landmark character of the structure.
 - (1) Reduced setbacks for restoration/replacement of documented portion of a landmark structure that has been destroyed. A reduction of up to 100 percent (100%) of any required setback may be approved if it is demonstrated that the proposed development between the required setback and the reduced setback area enhances the historic character of the landmark structure by restoring or replacing a portion of the original structure or structure that had been destroyed or demolished.
 - (2) Increasing maximum height of driveway gates. An increase in the maximum height of driveway gates may be approved if it is demonstrated that:
 - a. The proposed driveway gates will restore or replace gates that contribute to the character of landmark structure;
 - b. The proposed driveway gates are located no closer to the street than the original driveway gates; and
 - c. The proposed driveway gates will not compromise traffic safety.
 - (3) Decreasing minimum setback of driveway gates. A decrease in the minimum setback of driveway gates may be approved if it is demonstrated that:
 - a. The proposed driveway gates will restore or replace gates that contribute to the character of landmark structure;
 - b. The proposed driveway gates are located no closer to the street than the original driveway gates; and
 - c. The proposed driveway gates are designed and located in such a manner that they will not compromise traffic safety.

- (4) Decreasing landscaped open space for restoration or renovation of nonconforming landmark structures. A decrease in the minimum landscaped open space may be approved in order to permit landmark structures that do not conform to the minimum landscaped open space requirements to be renovated, reconstructed, or restored, in order to either preserve the structure as it existed when it was landmark; or in conjunction with restoration that involves the application of subsection b.
- (5) Decreasing landscaped open space for expansion of landmarked structures which are used for an important public purpose. A decrease of up to 15 percent (15%) of the minimum required landscaped open space may be approved if it is demonstrated that:
 - a. The reduction is necessary to permit the necessary expansion of a landmark structure which serves an important public purpose; and
 - b. Reasonable alternative designs that are otherwise permitted by the strict requirements of the underlying district, and which would result in the same cubic content ratio, would detract from the landmark character of the structure.
- (6) Landmarks preservation commission action; Town Council ratification of commission action on applications involving dimensional waivers.
- (7) Decisions to be placed on Town Council consent agenda. Decisions of the Landmark Preservation Commission to approve, approve with conditions, or deny applications for development approval involving dimensional waivers shall be placed on the consent agenda of the first available meeting of the Town Council after the decision.
- (8) Removal of decisions from consent agenda. Decisions that are placed on the Town Council consent agenda pursuant to subsection a., may be removed from the consent agenda and placed on the regular agenda at the request of a member of the Town Council.

Sec. 134-189 Administrative Waivers.

The Director may grant an administrative waiver providing for relief from the strict application of certain of the dimensional requirements of this Code for additions to, or renovation of existing single-unit dwelling structure constructed prior to 1980. Request for waivers will be reviewed and approved or denied administratively by the Director and may be granted if all of the following are satisfied:

- (a) Approval of the waiver will not compromise traffic safety;
- (b) Approval of the waiver will not compromise fire safety; and
- (c) There shall be no objection of any abutting lot owner(s).

Sec. 134-190 Specific Conditions on Administrative Waivers.

- (a) Specific conditions for approval of a waiver of required minimum side yard setback.

- (1) For a single-story structure, the resulting side yard setback is not less than any existing nonconforming side yard setback of the principal structure located on lot immediately abutting the side yard for which the waiver is requested.
 - (2) For a two-story structure, the resulting side yard setback is not less than:
 - a. Any existing nonconforming side yard setback of the single-story principal structure located on lot immediately abutting the side yard for which the waiver is requested, plus two and one-half feet (2.50'); or
 - b. Any existing nonconforming side yard setback of any two-story principal structure located on lot immediately abutting the side yard for which the waiver is requested.
- (b) In no event shall the side yard be less than seven and one-half feet (7.50') in the R-B district and not less than ten feet (10') in any other residential district.
- (c) Specific conditions for approval of a waiver of required minimum rear yard setback:
 - (1) For a single-story structure, the resulting rear yard setback is not less than any existing nonconforming rear yard setback of the principal structure located on lot immediately abutting the rear yard for which the waiver is requested.
 - (2) For a two-story structure, the resulting rear yard setback is not less than:
 - a. Any existing nonconforming rear yard setback of any single-story principal structure located on lot immediately abutting the rear yard for which the waiver is requested, plus five feet (5'); or
 - b. Any existing nonconforming rear yard setback of any two-story principal structure located on lot immediately abutting the rear yard for which the waiver is requested.
 - (3) In no event shall the rear yard be less than seven and one-half feet (7.50') in the R-B district and not less than ten feet (10') in any other residential district.
- (d) Specific conditions for approval of a waiver of minimum front yard setback for entry features.:
 - (1) The waiver shall be only for a single-story entry feature which meets the following conditions:
 - a. Such feature shall not exceed twenty-five percent (25%) of the total dimension of the structure wall from which such entry feature projects (measured parallel to said structure wall) but shall not be required to be less than ten feet (10') wide.
 - b. The measurement of the projection from the structure wall shall not be more than the width of the entry feature.
- (e) The resulting front yard setback is not less than the lesser of any existing nonconforming front yard setback of the principal structures located on lot immediately abutting either side of the lot for which the waiver is requested. In no case, however, shall the front yard setback be less than twenty feet (20').

- (1)** Notice to abutting lot owners; review by Director.
- (f)** Abutting lot owners shall be notified by certified mail to their respective addresses, as shown on the county lot appraiser's tax records, not less than fifteen (15) calendar days prior to a decision by the Director to approve or deny an application for a dimensional waiver.
- (g)** Said notification shall describe the nature and extent of the requested waiver, the location of the lot for which the waiver is requested, and the date by which the application will be acted upon by the Director.
- (h)** The Director shall approve, approve with modifications or deny the application for a waiver within thirty (30) days of receipt of the application and shall notify the applicant and abutting lot owner(s) in writing by certified mail within seven days of the decision.
- (i)** The applicant or abutting lot owner(s) shall have 30 days, from the date of the issuance of the certified letter notifying the applicant of the Director's decision, to file an appeal with the Town Council as set forth under sections 134-141—134-145.
- (j)** The approval of a waiver by the Director shall become effective upon the expiration of the appeal period as outlined in section 134-145.

Code Text & Map Amendments

Sec. 134-191 Code and Map Amendments.

- (a) The Town Council may from time to time on its own motion, or on petition signed by the fee simple lot owner of the subject lot or authorized designee, agent or representative of the owner by power of attorney filed with the Director, amend, supplement, change, modify or repeal the regulations, restrictions, or district boundaries established in this Code.
- (b) Any proposed amendment, supplement, change, modification or repeal shall first be submitted as an initial review to the Director, who shall submit it to the Town Council for its review and feedback. Should the applicant of a privately initiated text amendment decide to submit same following Town Council feedback, the Director shall submit the application to the planning and zoning commission for its recommendations and report.
- (c) Upon the filing of the recommendations and report by the planning and zoning commission, the Town Council shall proceed to hold a public hearing in relation thereto, providing at least fifteen (15) days' notice of the time and place of such hearing in a newspaper having a general circulation in the Town, and by posting the notice on the official bulletin board of the Town hall, If a proposed comprehensive plan amendment, zoning text amendment or zoning change increases the allowable density or intensity, a notice identifying such amendments or changes shall be mailed to all lot owners within one thousand feet (1,000') from any part of the subject lot at the address shown on the county lot appraiser's tax records, advising of the day and time of the hearing on such application before the Town Council. Said notice shall be mailed at least fifteen (15) days prior to the date for Town Council consideration of the proposed amendment(s) or zoning change(s).
- (d) If an adverse report is provided by the planning and zoning commission, or if a there is a written protest against such proposed amendment, supplement, change, modification or repeal, by an affected party, duly signed and acknowledged by the owners of 20 percent (20%) or more, either of the area of the lots included in such proposed change or of those immediately adjacent in the area thereof extending five hundred feet (500') therefrom, such amendment supplement, change, modification or repeal shall not become effective except by the favorable vote of three-fifths of all the members of the Town Council. In the event of a tie vote, the mayor shall cast the deciding vote, which shall constitute the three-fifth's requirement of the Town Council stated herein.
- (e) The planning and zoning commission shall hear applications to rezone lot and/or to amend, supplement, change, modify or repeal any article, division or section of this chapter within 60 days of the application being deemed complete by the Director. Any proposed amendment to change lot from one district to another district shall require the favorable vote of at least four members of the Town Council. A public hearing on the application shall then be held by the Town Council after public notice of the hearing is given in accordance with law.

Sec. 134-192 Effective Date of Amendments.

No amendment to this chapter shall become effective until 31 days subsequent to its enactment on second and final reading of an amending ordinance.

Sec. 134-193 Power of Electors; Time Limit and Number of Voters Required for Filing Petition.

The electors shall have the power to approve or reject at the polls any amendment to this Code or zoning map of the Town passed by the Town Council. Within 30 days after the enactment of any amendment to this chapter, a petition signed by registered voters of the Town equal to ten percent of the voters registered at the last Town election may be filed with the Town clerk requesting that any such amendment be either repealed or submitted to a vote of the electors.

Sec. 134-194 Form of Petition: Committee of Petitioners; Affidavit of Circulator.

- (a) All petition papers circulated for the purpose of a referendum for a zoning amendment shall be uniform in size and style. Each petition paper shall contain the full text of the zoning amendment the petitioners desire to be submitted for referendum. The signature to the petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this subdivision. Each signer of any such paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other descriptions sufficient to identify the place.
- (b) There shall appear on each petition the names and addresses of the same five electors who, as a committee of the petitioners, shall be regarded as responsible for the circulation and the filing of the petition.
- (c) Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the paper, that it bears a stated number of signatures, that all the signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Sec. 134-195 Filing, Examination and Certification of Petitions.

- (a) All petition papers comprising a referendum petition for a zoning amendment shall be assembled and filed with the Town clerk as one instrument.
- (b) Within ten days after the petition is filed, the Town clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The Town clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds.
- (c) After completing examination of the petition, the Town clerk shall certify the result thereof to the Town Council at its next regular meeting. If the clerk shall certify that the petition is

insufficient, he shall set forth in the clerk's certificate the particulars in which the petition is defective and shall at once notify the committee of petitioners of the clerk's findings.

Sec. 134-196 Amendment of Petitions.

Under this subdivision, a referendum petition may be amended at any time within ten days after the notification of insufficiency has been sent by the Town clerk, by filing a supplementary petition upon additional papers signed and filed as provided for an original petition. The Town clerk shall, within five days after such an amendment is filed, make an examination of the amended petition, and, if the petition is still insufficient, the clerk shall file a certificate to that effect in the clerk's office and notify the committee of the petitioners of the findings, and no further action shall be had on such insufficient petition.

Sec. 134-197 Amendment Suspended until Certification of Petition and Approval by Electors.

When a referendum petition or amended petition has been received by the Town clerk, the amendment specified in the petition shall not go into effect and further action thereunder shall be suspended if it shall have gone into effect until and unless the petition is certified by the Town clerk and approved by the electors, as provided in this section.

Sec. 134-198 Consideration by Town Council.

Whenever the Town Council receives a certified referendum petition for a zoning amendment from the Town clerk, it shall proceed at once to consider such petition. The Town Council shall take final action on the zoning amendment petitioned for referendum not later than 60 days after the date on which the petition is certified by the Town clerk. The referred amendment, when reconsidered by the Town Council shall be upon the question, "Shall the ordinance amendment specified in the referendum petition be repealed?"

Sec. 134-199 Submission to Electors.

If the Town Council fails to repeal the referred amendment to this chapter, the referred amendment shall be submitted to the electors not less than 60 days or more than 90 days from the date the Town Council takes its final vote thereon. The Town Council may, in its discretion, and if no regular election is to be held within such period, provide for a special election.

Sec. 134-200 Form of Ballot.

Amendments to this chapter submitted to vote of the electors in accordance with this subdivision shall be submitted by a ballot title, which shall be prepared by the Town attorney. The ballot title may be different from the legal title of such referred amendment, and it shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such zoning ordinance amendment. The ballot used in voting upon any ordinance, if a paper ballot, shall have below the ballot title the following propositions, one above the other in the order indicated: "for the zoning ordinance amendment" and "against the zoning ordinance amendment." Immediately at the left of each proposition there shall be a square in which by making a cross (X) the elector may vote for or against the zoning ordinance amendment. Any number of zoning ordinance amendments may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon shall be for that

purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two propositions, one above the other or one preceding the other in the order indicated, and the elector shall be given an opportunity to vote for either of the two propositions and thereby vote for or against the zoning ordinance amendment.

Sec. 134-201 Availability of List of Qualified Electors.

If any organization or group requests the list of qualified electors for the purpose of circulating descriptive matter relating to a zoning ordinance amendment to be voted on, the Town clerk or other official having custody of such list shall furnish it. For this service, the requesting party shall pay a fee to be established by the Town Council.

Sec. 134-202 Result of Elections.

A referred zoning ordinance amendment which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If the referred zoning ordinance amendment is approved by a majority of the electors voting thereon, the zoning ordinance amendment shall become effective as of the date the results of the election are certified by the Town clerk. Referendum amendments adopted or approved by the electors shall be posted and may be amended or repealed by the Town Council as for other ordinances.

Appeals

Sec. 134-203 Appeals of Director Decisions.

- (a) The Town Council shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Director hereunder.
- (b) Appeals to the Town Council may be taken by any person aggrieved or by any officer, board or bureau of the Town affected by any decision of the Director hereunder within 30 days after rendition of the written order, requirement, decision, or determination that is being appealed, or the right to appeal shall be barred. Such appeal shall be filed in writing or electronically to the Director for consideration by the Town Council. The filing shall include an electronic file or paper copies of the documents which contain all supporting facts, and data and appropriate exhibits, plans, documents and other materials to adequately depict and support the appeal.
- (c) Upon receipt of the appeal, the following procedures shall be followed:

 - (1) The Director shall examine such appeal and make a recommendation thereon, and shall forward such recommendation to Town Council, together with all documents, plans, and/or other materials that constitute the record of the action that is being appealed.
 - (2) All appeals will be heard at regular meetings of the Town Council.
 - (3) Postponement requests for deferred action on any appeal will be granted for one month only or the next succeeding regular Town Council meeting, if that should occur on a different date, except for good cause shown.
 - (4) When an appeal is deferred or postponed because the Town Council determines that additional professional advice is necessary, the expense of obtaining such additional professional advice shall be borne by the appellant. The person to render or give such additional professional advice shall be selected by mutual agreement of the Town and appellant.
- (d) Upon appeal, the Town Council may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by an administrative official in the enforcement of this chapter and may make any necessary order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote by three-fifths of all the members of the Town Council shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which the Town Council is required to pass under this chapter. In the event of a tie vote, the mayor shall cast the deciding vote, which shall constitute the three fifths requirement of the Town Council stated herein.
- (e) An appeal to the Town Council stays all work on the lot which is in furtherance of the action appealed from, unless the official from whom the appeal was taken shall certify to the Town Council that, because of facts stated in the certificate, a stay would cause

imminent peril to life and lot, in which case, proceedings or work shall not be stayed except by a restraining order which may be granted by the Town Council or by a court of competent jurisdiction on application, on notice to the officer from whom the appeal is taken, and on due cause shown of imminent peril to life and lot.

Sec. 134-204 Appeals of Town Council Decisions.

Any person aggrieved by any decision of the Town Council made pursuant to this Code, on appeal within 30 days from the rendition of such decision, may appeal to the circuit court for the 15th judicial circuit for a writ of certiorari to review such decision of the Town Council.

Reasonable Accommodation Procedures

[THIS SECTION HAS NOT BEEN REVIEWED AND WILL BE REVIEWED SEPARATELY. IT HAS BEEN COPIED AND PLACED HEREIN IN UNEDITED FORM PENDING REVIEW.]

Sec. 134-205 Reasonable Accommodation Procedures.

This section implements the policy of the Town of Palm Beach for processing of requests for reasonable accommodation to its ordinances, rules, policies, and procedures for persons with disabilities as provided by the federal Fair Housing Amendments Act ("FHAA") and the Americans with Disabilities Act ("ADA"). For purposes of this section, a "disabled" individual or person is an individual that qualifies as disabled and/or handicapped under the FHAA and/or ADA. Any person who is disabled (or qualifying entities) may request a reasonable accommodation with respect to the Town's land use or zoning laws, rules, policies, practices and/or procedures as provided by the FHAA and the ADA pursuant to the procedures set out in this section.

- (a) A request by an applicant for reasonable accommodation under this section shall be made in writing by completion of a reasonable accommodation request form, which form is maintained by (and shall be submitted to) the Town clerk. The reasonable accommodation form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall be substantially in the form set forth in subsection (10) below.
- (b) Should the information provided by the disabled individual to the Town include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual, such individual may, at the time of submitting such medical information, request that the Town, to the extent allowed by law, treat such medical information as confidential information of the disabled individual. The Town shall thereafter endeavor to provide written notice to the disabled individual, and/or their representative, of any request received by the Town for disclosure of the medical information or documentation which the disabled individual has previously requested be treated as confidential by the Town. The Town will cooperate with the disabled individual, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the Town shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the disabled individual.
- (c) The Town manager, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation, after a minimum of 30-day notice to all lot owners within three hundred feet (300') of the lot proposed for a reasonable accommodation and after a public hearing to receive comments, input and information

from the public (provided, however, the Town manager or designee shall not be required to render his or her decision at said public hearing). Each applicant submitting a reasonable accommodation request form shall be responsible for providing a notice affidavit to the Town manager, or his/her designee, verifying that all lot owners within the 300-foot radius of the proposed lot was mailed a proper notice outlining the specific nature of the reasonable accommodation request, including the date time and location of the public hearing in which said request will be considered and a listing of all lot owners; and a corresponding map of lot owners within the 300-foot radius. Said lot owner list and map is required to be provided from information provided by the Palm Beach County Lot Appraisers Office. When a reasonable accommodation request form has been completed and submitted to the Town clerk it will be referred to the Town manager, or designee, for review and consideration. The Town manager, or designee, shall issue a written determination within 45 days of the date of receipt of a completed application and may, in accordance with federal law:

- (1) Grant the accommodation request;
 - (2) Grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request; or
 - (3) Deny the request, in accordance with federal law. Any such denial shall be in writing and shall state the grounds therefor. All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e. the disabled individual or his/her representative) by certified mail, return receipt requested. If reasonably necessary to reach a determination on the request for reasonable accommodation, the Town manager, or designee, may, prior to the end of said 45-day period, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have 15 days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the 45-day period to issue a written determination shall no longer be applicable, and the Town manager, or designee, shall issue a written determination within 30 days after receipt of the additional information. If the requesting party fails to provide the requested additional information within said 15-day period, the Town manager, or designee, shall issue a written notice advising that the requesting party had failed to timely submit the additional information and, therefore, the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the Town with regard to said reasonable accommodation request shall be required. The deadlines referenced herein may be extended by mutual agreement between the Town and the applicant.
- (d) In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish that they are protected under the FHA and/or ADA by demonstrating that they, or the party they represent, are handicapped or disabled, as defined in the FHA and/or ADA. Although the definition of disability is subject to judicial interpretation, for purposes of this section the disabled individual must show:

- (1)** A physical or mental impairment which substantially limits one or more major life activities;
 - (2)** A record of having such impairment; or
 - (3)** That they are regarded as having such impairment. Next, the requesting party will have to demonstrate that the proposed accommodations being sought are reasonable and necessary to afford handicapped/disabled persons equal opportunity to use and enjoy housing. The foregoing (as interpreted by the courts) shall be the basis for a decision upon a reasonable accommodation request made by the Town manager, or designee, or by the Town Council in the event of an appeal.
- (e)** Within 30 days after the Town manager's, or designee's, determination on a reasonable accommodation request is mailed to the requesting party, such applicant may appeal the decision. All appeals shall contain a statement containing sufficient detail of the grounds for the appeal. Appeals shall be to the Town Council who shall, after public notice and a public hearing, render a determination as soon as reasonably practicable, but in no event later than 60 days after an appeal has been filed.
- (f)** There shall be no fee imposed by the Town in connection with a request for reasonable accommodation under this section or an appeal of a determination on such request to the Town Council, and the Town shall have no obligation to pay a requesting party's (or an appealing parties, as applicable) attorneys' fees or costs in connection with the request, or an appeal.
- (g)** While an application for reasonable accommodation, or appeal of a determination of same, is pending before the Town, the Town will not enforce the subject zoning ordinance, rules, policies, and procedures against the applicant.
- (h)** The following general provisions shall be applicable:
 - (1)** The Town shall display a notice in the Town's public notice bulletin board (and shall maintain copies available for review in the Town clerk's office), advising the public disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.
 - (2)** A disabled individual may apply for a reasonable accommodation on his/her own behalf or may be represented at all stages of the reasonable accommodation process by a person designated by the disabled individual.
 - (3)** The Town shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions, completing the form, filing an appeal, and appearing at a hearing etc. to ensure the process is accessible.
 - (4)** Reasonable accommodation request form shall be filed with the Town to include the following information:
 - a.** Name of applicant:
 - b.** Telephone number:

- c.** Address:
- d.** Address of housing or other location at which accommodation is requested:
- e.** Describe qualifying disability or handicap:
- f.** Describe the accommodation and the specific regulation(s) and or procedure(s) from which accommodation is sought
- g.** Reasons the reasonable accommodation may be necessary for the individual with disabilities to use and enjoy the housing or other service:
- h.** Name address and telephone number of representative if applicable:
- i.** Other information:
- j.** Signature of disabled individual or representative, if applicable, or qualifying entity:

ARTICLE VI: GLOSSARY OF TERMS



TOWN OF PALM BEACH, FLORIDA

www.townofpalmbeach.com

Glossary of Terms

A

Accessory Structure. A structure or structure that is subordinate to the principal structure or structure upon the same lot and serving a purpose customarily incidental to the principal structure.

Accessory Use. A subordinate use customarily incidental to the principal use located on the lot or located on a contiguous lot when a unity of title has been provided.

Acre. A unit of measurement for land, one of which is forty-three thousand five hundred sixty (43,560) square feet in area.

Aisle. That part of an off-street parking or loading area which provides vehicular access to parking or loading spaces, exclusive of driveways.

Alley. Secondary means of access to abutting lot and not intended for general traffic circulation.

Arcade. A row of evenly spaced columns that usually support a roof or a series of arches. A colonnade can also refer to a roofed arcade or gallery with open sides that runs along the side or front of a structure.

Auditorium. A large room or structure used for gatherings typically open to the general public to watch and/or listen to a performance, speech, or concert.

Awning. A shelter projecting from and supported by the exterior wall of a structure constructed of non-rigid materials on a supporting framework.

B

Banking and Finance. Saving, lending, trust, and other financial services.

Basement. A story all or partly underground but having at least one-half (1/2) of its height below the average level of the adjoining ground.

Beach house. A permanent structure which may contain a bathroom and other rooms, but not a kitchen or any sleeping rooms, and not used as a dwelling unit.

Structure. See also "Structure."

Structure Line. The line beyond which a structure shall not extend.

C

Cabana. An accessory structure usually used in connection with outdoor bathing, providing enclosed space for showering or changing clothes, with recreational cooking and/or bar facilities, but no sleeping rooms.

Cannabis Cultivation. A use of any lot, in whole or in part, including inside structures, for the growing or

cultivation of Cannabis plant(s), whether or not such growing or cultivation is lawful under federal or state law.

Carport. An unenclosed accessory structure for the sheltering of vehicles.

Club Activities. Socializing and recreating by a membership and their bona fide guests.

Code of Ordinances. The Town of Palm Beach Code of Ordinances, which includes the Code.

Colonnade. A row of columns supporting a roof, an entablature, or arcade.

Common Open Space. The area of a development site which is unencumbered by structures, other structures, driveways for vehicular access, or automobile parking areas and storage, including all yard areas as well as those other open land areas located within the planned unit development site.

Courtyard. An open area of a lot surrounding on at least three sides by a structure.

Courtyard Residence. A single-unit detached dwelling with a courtyard.

Cultural and Arts Institution, Not-For-Profit. Any corporation, organization, or institution that (a) provides programs or activities in areas directly concerned with the arts of cultural heritage, (b) is not-for-profit and owned and operated by a single cultural and arts institution that has a tax-exempt status with the Internal Revenue Service, and whose net earnings may not lawfully inure to the benefit of any private shareholder, member, or individual, (c) may include one or more museums, art galleries, performing art centers, libraries, and/or botanical and sculpture gardens, and (d) may include one or more accessory uses that are customarily incidental to and directly supportive of such uses, including cooking facilities, lecture halls, classrooms, storage facilities, offices, off-street parking and loading, and not more than a total of three residential units for purposes of no-charge housing to employees, short-term guests, and artists in residence, all of which shall be subject to the conditions and limitations set forth in this Code, and shall be limited to a maximum of three bedrooms and two thousand three (2,300) square feet per unit.

Cultural Center. An institution for promoting education and the refinement of taste, intellectual and/or aesthetic matters, not including museum uses, operated without profit.

D

Declaration of Use. A Town agreement signed under oath and recorded against the title of land in order to provide notice that the use of the land or structure is subject to certain limitations and/or conditions of approval, which unless otherwise determined by the Town Council, shall include provisions for remedies for violation of said limitations, conditions of approval and/or the Code of Ordinances and that the use will remain in compliance with the limitations in the Code of Ordinances and conditions of approval by the submittal of a certificate of compliance each year.

Density. A unit of measurement; the number of dwelling units per acre of land.

Dining, Accessory. Food service that is ancillary to a principal use, such as an accessory café, and which may include alcoholic beverage sales for on-lot consumption; provided, no such use shall be a formula restaurant.

Dining, Full-Service. Food service where ordering primarily takes place from a table where guests are seated

and consume food and drink; provided, no such use shall be a formula restaurant.

Dining, Limited-Service. Food service where ordering of food and drink primarily takes place at a counter; provided, no such use shall be a formula restaurant.

Dining Room. Any room or part thereof in which food is dispensed or served for profit or gratis to a restricted and limited clientele consisting of tenants and residents of the same lot and their bona fide guests, and private club members and their bona fide guests.

Director. The Town of Palm Beach Director of Planning, Zoning, and Structures, or their designee.

Dish Antenna. A satellite earth station designed to receive television or other broadcasts relayed by microwave signals from earth-orbiting communications satellites.

Dispensing. The provision of substances for medical purposes by a licensed and permitted pharmacological professional.

Distribution Electric Substation. An electric substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size.

Dock. An unenclosed accessory structure built on piling over the water, which is designed or used to provide dockage for and access to one or more boats and which may have davits, vertical lifts, gates, water and electrical service, other similar public utility services and additional accessory uses customarily incident to a dock, such as but not limited to storage chests and low-intensity lighting approved by the Town and installed in a manner as to not have an adverse effect upon adjacent lots.

Dwelling. A structure or part of a structure that is designed or used exclusively for residential living purposes. One dwelling within a larger group of dwellings is a "Dwelling Unit."

E

Easement Line. The boundary line of a particularly described area of exclusive or non-exclusive legal interest in, on, under, over or through a portion of a lot or appurtenance thereto.

Employee. Any person generally working on site for the establishment and includes sole proprietors, partners, limited partners, corporate officers and the like.

Essential Services. Public utility facilities related to water supply, telephone, cable television, gas and electrical distribution systems, Town-owned Town-operated services such as sanitary sewer, stormwater drainage and solid waste collection and disposal systems, and Town-owned municipal structures and structures, including any necessary appurtenant structures serving the Town, but not including structures housing employees.

F

Façade. A side of the exterior of a structure (exclusively of permitted encroachments), especially the front, but also sometimes the sides and rear.

Fence. A structure positioned up to or on top of the lot line, easement line, right-of-way, or setback line, as applicable for the purpose of separating lots, or for screening, enclosing, and/or protecting the lot within its perimeter.

Formula Restaurant. A restaurant that is one of a chain or group of three or more restaurants in the nation, and which satisfies at least two of the following three descriptions: (a) it has the same or similar name, trade name, or trademark as others in the chain or group; (b) it has standardized and limited menus, ingredients, food and beverage preparation; (c) it offers any of the following characteristics in a style that is distinctive to and standardized among the chain or group: (i) exterior design or architecture; (ii) interior design; or (iii) uniforms, except that a personal identification or simple logo will not render the clothing a uniform.

Frontage. All the lot on one side of a street or place between two intersecting streets or places measured along the line of the street or place, or, if the street or place is dead-ended, all of the lot abutting on one side between an intersecting street or place and the dead end of the street or place.

G

Gable. The triangular section of wall at the end of a pitched roof, occupying the space between the two slopes of the roof, or the whole end wall of a structure or wing having a pitched roof.

Garage, Private. An accessory structure or part of a principal structure used for the storage of motor vehicles as an accessory use and in which no vehicular services may take place.

Grade. The elevation of land surrounding a structure or the slope of a road, in each case expressed as a percentage.

Gross Floor Area. The sum of the gross horizontal area of all the floors of a structure, except a basement or subbasement as defined, measured from the exterior faces of exterior walls and/or supporting columns.

Gross Leasable Area. The sum of the gross horizontal area of all floors on one structure, which are leased, rented or owned areas within a structure, measured from the interior faces of exterior walls and from the interior faces of common interior walls, exclusive of common areas. For the purposes of this definition, the gross leasable area of a given use shall include all floor areas being used, advertised or operated under a single commercial use name which are adjacent to one another; or all floor areas being used, advertised or operated under a single commercial use name which are within one thousand five hundred feet (1,500') of one another; or all floor areas being used or operated under different commercial use names, but for which interior access between/among them is provided.

Group Home. A facility, licensed or funded by the state department of children and family services, providing a living environment for unrelated residents who operate as the functional equivalent of a family, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents.

H

Habitable Space. Space in or on a structure used or intended to be used for occupancy, for living, sleeping, lounging, eating, cooking or recreation. Finished or unfinished floors above the maximum number of stories allowed containing an elevator, permanent or mechanically operated stairs and seven feet (7') or more of head room shall be considered habitable space. Closets, hallways, storage rooms, attics, machinery rooms, mechanical

equipment rooms, utility space and similar areas shall not be considered habitable space.

Hotel. A place of transient occupancy which includes any structure consisting of one or more structures containing any combination of more than five (5) guestrooms that are each approved by the Director and the fire chief as meeting the requirements for transient sleeping rooms, or as having features of such sleeping rooms and dwelling units within the same room, and such structure is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where transient sleeping accommodations are offered for pay to persons. "Hotel" does not include agricultural labor camps, apartment houses, apartments or other similar places of permanent personal residence, lodging houses, rooming houses, or hospital or college dormitories.

House of Worship. A structure owned and/or utilized by a religious organization for worship, religious training or education. A house of worship, for the purposes of this chapter, may include, in addition to the principal structure, accessory structures and/or dwelling units for religious organization personnel located within an accessory structure which is utilized primarily for religious training or educational purposes

Household. A social unit composed of persons living together.

I

Impervious Surface. Any material which prevents the absorption of stormwater into the ground, including concrete, asphalt, stone, brick, block or other paving material or a roof or awning.

L

Landscaped Open Space. Open space which is covered and maintained with natural growth in a permeable soil.

Lighting, External Direct. Light that shines directly onto a specific area or object from an external source, such as a light fixture or lamp.

Lodging. Overnight sleeping accommodations for transient guests not located in a residence.

Logo. A graphic representation, letter, character, symbol, trademark, design or crest or combinations thereof used to identify a business or organization.

Lot. A lot of land, vacant or occupied, including any number of contiguous lots of record or unplatted lots of land or portions thereof not separated by a street or public way, upon which one or more principal structures for a single use are erected or are to be erected. This term includes the words "plot," "tract," "lot," "lot," or "lot."

Lot Coverage. That percentage of the lot area covered or occupied by the structures or any part of the structures, excluding therefrom any projections permitted to extend into yard areas elsewhere by this chapter.

Lot Depth. The distance from the midpoint of the front lot line to the midpoint of the mean rear lot line.

Lot, Interior. A lot other than a corner lot having frontage on one street

Lot, Irregular Shaped. A lot that does not have a standard square or rectangular shape.

Lot Lines. The lines bounding a lot as established by ownership.

Lot of Record. The front street lot line, side street lot line or rear street lot line of any lot, which shall be the right-of-way line of the abutting street.

Lot Line, Front. In the case of an interior lot, a line separating the lot from the street or place, and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street, except in cases where deed restrictions in effect specify another line as the front lot line.

Lot Line, Rear. A lot line which is opposite and most distant from the front lot line and, in case of an irregular or triangular shaped lot, a line ten feet (10') in length within the lot, parallel to and at the maximum distance from the front line.

Lot Line, Side. Any lot boundary not a front lot line or a rear lot line.

Lot Line, Interior Side. A lot line separating the side yards of two lots.

Lot Line, Street. The front street lot line, side street lot line or rear street lot line of any lot, which shall be the right-of-way line of the abutting street.

Lot, Through. An interior lot having frontage on two streets, other than a corner lot

Lot Width. The distance measured between the side lot lines of a lot at its shortest distance.

M

Medical Marijuana Dispensary. A facility that is operated by an organization or business holding all necessary licenses and permits from which marijuana, cannabis, cannabis-based products, or cannabis plants are delivered, purchased, possessed, or dispensed for medical purposes and operated in accordance with all local, federal, and state laws. Physicians authorized by state law to order low-THC cannabis, as defined in Florida Statutes, for qualified registered patients' medical use are not included in the definition of medical marijuana dispensary.

Medical Marijuana Treatment Center. An entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualified registered patients or their personal caregivers and is registered by the state department of health and regulated under the Code of Ordinances.

Museum. An institution for collecting, preparing, and exhibiting rare, interesting, or typical specimens of works of art, science, invention, manufacturers, etc., or of antiquities, curiosities; or objects of natural history; also, the collection of such articles or their repository.

Multi-Unit Dwelling. Independent residential living for more than three households.

N

Nightclub. An establishment dispensing alcoholic beverages for on-site consumption, whether or not food is served, and which is a place of entertainment that is usually open late at night, offering live music, dancing,

drinks, and a floorshow by one or more performing artists, by one or more live entertainers singing to prerecorded music, or a deejay playing recorded music; provided, however, that a restaurant that provides only background dinner music, or entertainment, or where dancing is conducted to live or recorded music does not constitute a nightclub.

Nonconforming Lot. A lot lawfully in existence on the effective date of the ordinance from which this chapter is derived that does not conform to the regulations contained in this chapter for the district in which the land lot is situated.

Nonconforming Structure. A structure or structure lawfully in existence on the effective date of the ordinance from which this chapter is derived that does not conform to the regulations contained in this chapter for the district in which the structure or structure is situated.

Nonconforming Use. A use lawfully in existence on the effective date of the ordinance from which this chapter is derived that does not conform to the regulations contained in this chapter for the district in which the use is situated.

O

Office – Professional Services. Professional offices including: accounting, auditing and bookkeeping services; advertising agencies; architectural, engineering, planning, and surveying services; attorneys; counseling services; court reporting services; data processing and computer services; detective agencies and similar services; educational, scientific, and research organizations; employment, stenographic, secretarial, and word processing services; government offices including agency and administrative office facilities; management, public relations, and consulting services; photography and commercial art studios; writers and artists offices outside the home. Does not include medical offices or offices that are incidental and accessory to another business or sales activity that is the principal use. Incidental offices that are customarily accessory to another use are allowed as part of an approved principal use.

Open Space. The area of a lot which is unencumbered by structures, other structures, driveways, or automobile parking areas, except for garden walls and fences as provided in this chapter.

Outdoor cafe seating. The placing or locating of furniture outdoors, including tables, chairs, and umbrellas, adjacent to a business licensed as a restaurant dining room, retail specialty food including the sale of prepared foods for takeout only, or private, social, swimming, golf, tennis or yacht club, with the purpose of providing outdoor seating.

P

Parapet Wall. A low wall to protect the edge of a roof of a structure.

Parking Area. An open area or plot of land used for the storage or parking of motor vehicles to provide off-street parking, either for profit or gratis, for commercial or residential uses, other than single-unit.

Pedestrian Via. A path or passageway designed for foot traffic only.

Pergola. An open, accessory structure comprised of a structural framework over an outdoor area usually covered with climbing shrubs or vines.

Personal Services. The provision of services to individuals dealing with their person or immediate effects.

Pharmacy. An establishment offering goods for retail sale or on-site dispensing of prescription drugs, non-prescription drugs or both.

Portico. A type of colonnade that serves as a covered walkway or porch supported by columns.

Primary Pedestrian Entrance. The main entrance to a structure that faces the street or a public space.

Private Outdoor Sporting Facility. A privately owned area for outdoor sports such as a tennis court, basketball court, bacci ball court, or other private court for sports or game.

Professional Office. A structure or portion of a structure wherein services are performed involving predominately administrative, professional or clerical operations.

Public Services. The provisions of services by a governmental or quasi-governmental agency in furtherance of the public health, safety, and general welfare of the Town's residents.

R

Residential (Upper Floor). Where permitted, dwelling units located on a floor other than the ground floor.

Retail. The direct sale of goods to consumers.

S

Sales. The purveyance of goods or commodities to ultimate consumers.

School. A public or private education institution offering instruction at the elementary or secondary level in the branches of learning and study required to be taught in schools within the State.

Sea Streets. Seabreeze Avenue, and Seaspray, and Seaview Avenues in the Town of Palm Beach.

Services. Assistance provided by non-accredited or licensed persons.

Setback, Front. The distance a structure must be located from the front lot line.

Setback, Rear. The distance a structure must be located from the rear lot line.

Setback, Side. The distance a structure must be located from a side lot line or an interior side lot line.

Setback, Street Side. The distance a structure must be located from a corner lot that is not the front lot line.

Shade Tree. A tree having a height of not less than twelve feet (12') and a spread of not less than ten feet (10') at the time of planting.

Sign. Lettering, pictures, illustrations or trademarks, logograms, posters or characters, visible from a public or

private roadway and/or sidewalk, which shall be classified as signs regardless of whether they are freestanding or attached or painted to or on a structure, structure, display board, screen surface or wall or are projected thereon by artificial lighting.

Sign, Building Entrance. A sign directly affixed to the wall of the structure within three feet (3') of a primary pedestrian entrance.

Sign, Facade. A sign that is applied to the facade of a structure with the sign face being parallel to the facade, but that is not a Building Entrance Sign..

Sign, Pedestrian Via Overhead. A pedestrian-scale sign suspended over a pedestrian via either from the underside of the roof over the pedestrian via or projecting from a wall abutting the pedestrian via.

Sign, Temporary Yard. A sign that is placed in a front yard or street side yard for a limited time.

Sign, Window and Door. Any sign, picture, symbol, or combination thereof that is etched or otherwise affixed to door or window.

Single-unit Dwelling. Independent residential living for one household within a standalone dwelling.

Sleeping Quarters. Rooms or structures that are primarily used for sleeping and are equipped with beds.

Solar Panel. A solar photovoltaic panel, solar hot air or hot water panel collector device, or other type of energy system which relies upon solar radiation as a source for the generation of electricity or transfer of stored heat.

Special Event. A temporary outdoor use of land for the purposes of a gathering, including but not limited to a fair, festival, celebration, or fundraiser.

State. The State of Florida.

Statue or Sculpture. An object which is fashioned, shaped and formed by hand or machine into a work of art, including but not limited to contemporary, modern, classical and/or abstract design, and that may or may not be a likeness of a person or thing.

Story. That portion of a structure other than a cellar included between the surface of any floor and the surface of the floor above it or if there is not floor above it, then the space between the floor and the ceiling next above it. A basement shall be counted as a story if it is used for living quarters or if two-thirds of its volume is above the average finished grade of the adjoining ground.

Street. The primary access to abutting lot that is intended for general traffic circulation. A street includes the entire area between street lines (right-of-way lines), including provisions for cul-de-sac.

Street Edge. The location where the street pavement begins and ends.

Structural Alteration. Any change, except the repair or replacement, in the supporting members of a structure, such as bearing walls, columns, beams or girders, or the rearrangement of any interior partitions affecting more than 50 percent (50%) of the floor area of the structure.

Structure. Something affixed to the ground by way of a foundation.

Structure, Habitable. A structure that is designed and suitable for human occupancy, meaning it has the necessary features like adequate ventilation, plumbing, heating, and structural integrity in which to live safely.

Structure, Principal. A main and foremost structure or structure located on a lot and in which is conducted the main and foremost use of the lot on which the structure or structure is situated.

Sub-Basement. An underground structure that does not exceed in height the lowest point of the public sidewalk abutting the lot or, alternately, the lowest point of the public street if there is no public sidewalk and no portion which is located beyond the confines of the outer walls of the main structure located above ground level.

Studio, Art. Work space for one or more artists or artisans, including the accessory sale of art produced on the lot, or gallery space.

Swimming Pool. A body of water of artificial construction, used for swimming or recreational bathing, which is over eighteen inches (18") in depth at any point, and has more than one hundred (100) square feet of area on the water surface when filled to capacity, and including the bottom and sides of the pool, and the equipment appurtenances thereof.

T

Theater. A building in which plays or other dramatic performances are given.

Town. The Town of Palm Beach, Florida.

Townhouse. Independent residential living for one household within a series of horizontally attached dwellings.

Trellis. An ornamental accessory structure of lattice work over which vines are trained, usually made of narrow strips of wood which cross each other at regular intervals.

Two-Unit Attached Dwelling. Independent residential living for a household within two attached dwellings.

U

Use, Accessory. A use that is customarily incidental to a principal use.

Use, Principal. A main and foremost use of improved or unimproved lot, such use established on the lot and which may be within or without any structure on the lot.

V

Vehicular Parking. Temporary storage of vehicles outside of the public right-of-way.

Vehicular Services. Maintaining, repairing, and refueling/recharging vehicles.

Y

Yard. Open space on the same lot with a structure, such space unoccupied by structures and unobstructed from the ground upward except by trees or shrubbery or as otherwise provided in this chapter. The term "yard" may also apply to that area of the lot required to remain in open space by percentage of lot coverage regulations contained in this chapter in addition to the required front, required side or required rear yard open spaces.

Yard, Front. A yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal structure.

Yard, Rear. A yard extending between side lot lines across the rear of the lot and from the rear lot line to the rear of the principal structure.

Yard, Side. A yard extending from the principal structure to the side lot line on both sides of the principal structure between the lines establishing the front and rear yards.

Yard, Street Side. A yard extending from the principal structure to the non-front lot line of a corner lot.

Z

Zero Datum. The point of measuring all zoning code calculations related to structure height, structure overall height, structure height plane and cubic content ratio.

Zone. See also "District."

Zoning in Progress. A period of time during the zoning procedures which begins with active and documented efforts by those authorized to do the zoning work which, in the normal course of municipal action, may culminate in the requisite zoning change.