

## **ORDINANCE NO. 005-2025**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 18 - BUILDING AND BUILDING REGULATIONS, ARTICLE VII. - CONSTRUCTION SITE MANAGEMENT BY ADDING SECTION 18-354 TO ADDRESS CONSTRUCTION THAT DEVIATES FROM THE APPROVED SET OF PLANS; AMENDING SECTION 2-439 OF THE TOWN CODE RELATING TO CITATION FINE SCHEDULE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Palm Beach, Florida (“Town”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, Town Staff and the Town’s design review boards, the Landmarks Preservation Commission (LPC) and the Architectural Review Commission (ARCOM) devote significant resources to approving construction projects, often with significant input from the public; and

**WHEREAS**, construction projects are approved and permitted with specific construction plans but owners often deviate from the approved plans and install unapproved and unpermitted features or exceed the scope of the approved work; and

**WHEREAS**, these deviations are often not noticed until after the improvements have been made or at the end of the project; and

**WHEREAS**, the unapproved and unpermitted construction work creates the need for further design review by Staff, ARCOM and/or LPC and prevents Staff from issuing final inspections and certificates of occupancy until the deviations are approved; and

**WHEREAS**, Staff have tried various remedies to stop this unapproved and unpermitted construction work without much success; and

**WHEREAS**, authorizing the Town's building official to issue a stop work order immediately upon the discovery of construction that deviates from approved construction plans will ensure the high quality of the Town's residential and commercial neighborhoods, preserve property values, and otherwise protect the health, safety, and welfare of the public; and

**NOW THEREFORE BE IT ORDAINED** by the Town Council of the Town of Palm Beach, Palm Beach County, Florida, as follows:

**Section 1.** The recitations set forth above are true and correct and incorporated herein as legislative findings of the Town Council.

**Section 2.** The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 18 – Building and Building Regulations, Article VII.- Construction Site Management by adding Section 18-354 to read:

**“18-354 – Construction That Deviates from Approved Plans.**

a) Stop Work Order authorized. Whenever the building official finds any construction being performed in a manner that materially deviates from (violates) the approved construction plans, the building official shall immediately issue a stop work order.

(1) The stop work order shall be in writing and shall be given to the owner of the property involved or the owner’s agent and to the contractor. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. Where an emergency exists, the building official shall not be required to give a written notice prior to stopping work.

(2) Any person who continues the cited work after having been served with a stop work order, except such work as the building official directs that person to perform to remove a violation or unsafe condition, shall be subject to penalties as provided in section 2-439 of this Code and otherwise permitted by Florida law.

b) Application to retain, right to appeal, and removal.

(1) Any application to retain the unapproved construction feature(s) shall be made to the architectural commission (ARCOM) or landmarks preservation commission (LPC), and the Town Council as deemed necessary by the director of the Planning, Zoning and Building Department within 30 days of issuance of the stop work order. The application shall include a doubling of the normal application fees (2 times the normal fees) in order to offset additional costs incurred by the Planning, Zoning and Building Department.

(2) The property owner shall have the right to appeal the denial of an application to retain by ARCOM or LPC to the Town Council. The appeal must be filed at least five (5) days prior to the next available meeting of the Town Council subsequent to the notice of appeal.

(3) The unapproved construction work shall be removed by the owner or contractor within 30 days of the exhaustion of any appeal to or decision by the Town Council denying the application to retain.

- c) Restrictions on issuance of Certificate of Occupancy: During the time that unapproved construction work has been determined to exist on a project, the Town shall not issue any form of Temporary Certificate of Occupancy, Final Certificate of Occupancy, or Final Certificate of Completion to the subject project.
- d) It is the intent of this section to provide an alternative manner to resolve construction that deviates from approved plans on an expedited basis; provided, however, both the Town and the owner retain all rights and obligations set forth in Chapter 2, Article V, Code Enforcement.
- e) The owner and contractor shall acknowledge this regulation prior to construction by executing the “Owner/Contractor Deviation of Construction from Approved Plans Affidavit”, which is part of the Building Permit Application Packet.

**Section 3.** The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 2 – Administration, Article V. - Code Enforcement by amending Section 2-439, Citation Fine Schedule as set forth below. Except as amended herein, the remainder of Section 2-439 remains in full force and effect.

**Sec. 2-439 – Citation Fine Schedule:**

Code Section		Class
<i>CHAPTER 18 BUILDING AND BUILDING REGULATIONS</i>		
<u>SEC. 18-354</u>	<u>Construction that Deviates from Approved Plans</u>	<u>III</u>

**Section 4. Severability.**

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

**Section 5. Repeal of Ordinances in Conflict.**

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

**Section 6. Codification.**

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

**Section 7. Effective Date.**

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

**PASSED AND ADOPTED** in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this \_\_\_\_ day of \_\_\_\_\_, 2025, and for second and final reading on this \_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Danielle H. Moore, Mayor

\_\_\_\_\_  
Bobbie D. Lindsay, Town Council President

\_\_\_\_\_  
Lewis S.W. Crampton, Council President Pro Tem

ATTEST:

\_\_\_\_\_  
Julie Araskog, Town Council Member

\_\_\_\_\_  
Edward A. Cooney, Town Council Member

\_\_\_\_\_  
Kelly Churney, Acting Town Clerk

\_\_\_\_\_  
Bridget Moran, Town Council Member