

**ORDINANCE NO. 2-2019**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 134, ZONING, AS FOLLOWS: AT ARTICLE I, IN GENERAL, SECTION 134-2, DEFINITIONS AND RULES OF CONSTRUCTION, BY ADDING A DEFINITION OF PUBLIC STRUCTURE; MODIFYING THE DEFINITION OF ESSENTIAL SERVICES TO INCLUDE TOWN-OWNED MUNICIPAL BUILDINGS AND STRUCTURES, AND MODIFYING THE DEFINITION OF LOT TO EXCLUDE TOWN-OWNED OR TOWN-LEASED PROPERTY; AT ARTICLE IV, NONCONFORMITIES, SECTION 134-416, CONTINUATION; DEFINITION; INTENT, TO EXEMPT TOWN-OWNED MUNICIPAL BUILDINGS AND STRUCTURES WHICH ARE AT LEAST FIFTY (50) YEARS OLD FROM ARTICLE IV, NONCONFORMITIES, DIVISION 3, BUILDINGS AND STRUCTURES; AT ARTICLE VI, DISTRICT REGULATIONS, SECTIONS 134-790, 134-840, 134-890, 144-945, 134-1000, 134-1055, 134-1109, 134-1159, 134-1209, 134-1259, 134-1304 AND 134-1354 TO ADD ESSENTIAL SERVICES RELATED TO TOWN-OWNED MUNICIPAL BUILDINGS AND STRUCTURES IN ALL ZONING DISTRICTS AS A SPECIAL EXCEPTION USE AND RENUMBERING THE SPECIAL EXCEPTION USES IN THOSE SECTIONS; ARTICLE VIII, SUPPLEMENTARY DISTRICT REGULATION, SECTION 134-1697, STRUCTURES OVER LAKE WORK BY ADDING “BUILDINGS” INTO THE TITLE AND TO ALLOW “ESSENTIAL SERVICES RELATED TO TOWN-OWNED BUILDINGS AND STRUCTURES” OVER LAKE WORK; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, after public hearings pursuant to notice required by law, the Planning and Zoning Commission considered all testimony and recommended modification to the Code of Ordinances; and

**WHEREAS**, after public hearing pursuant to notice required by law, the Town Council considered the Planning and Zoning Commission’s Record and Report and all evidence and testimony and as the Local Planning Agency recommended that the Town Council adopt the subject Ordinance; and

**WHEREAS**, after public hearing pursuant to notice as required by law, the Town Council does hereby find, determine, and declare that the public health, safety, morals and general welfare of the citizens of the Town of Palm Beach requires that the aforesaid Chapter 134, ZONING, of the Code of Ordinances, be amended as hereinafter set forth.

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

**Section 1.** Article I, IN GENERAL, Section 134-2, Definitions and rules of construction, is hereby amended to read as follows:

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

(a)...

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

(a) Rules of construction. For the purpose of this chapter, the regulations are structured so as to be strictly permissive. As such, only those uses and structures which are specifically permitted in the Code of Ordinances are allowed. If there is no specific language in the Code which addresses a use or a structure, then said use or structure is not permitted.

The term "used for" shall include the term "designed for", the term "structure" shall include the term "building", the term "lot" shall include the terms "plot" or "tract", and the term "shall" is mandatory and not permissive.

In the interpretation or application of any provision of this chapter, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulations shall be controlling.

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

...

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

...

*Lot* means a parcel of land, vacant or occupied. For the purpose of this chapter, the word "lot" shall be taken to mean any number of contiguous lots of record or unplatted parcels 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. When the lot is situated immediately adjacent to the ocean front, for the purpose of this chapter, the east lot line shall be the town's bulkhead line as provided in chapter 62 of this Code or the mean high water line, whichever is most westerly. When the lot is situated immediately adjacent to the waters of Lake Worth, the

west lot line shall be the existing bulkhead wall or mean high water line, whichever is most easterly. The exception to this definition is that Town-owned or Town-leased property is exempt from this definition. The following is an illustration of this definition:

...

Structure, Public means anything constructed, placed or erected on land, submerged land or over water by a Federal, State, County, City of West Palm Beach and City of Lake Worth governmental entities, the use of which requires permanent or temporary location on the land, submerged land or over water, or attachment to something having a permanent or temporary location on or over the land, submerged land, or water.

**Section 2.** Article IV. NONCONFORMITIES, DIVISION 3 BUILDINGS AND STRUCTURES, Section 134-416, Continuation; definition; intent, is hereby amended to read as follows:

### **DIVISION 3. - BUILDINGS AND STRUCTURES**

#### **Sec. 134-416. - Continuation; definition; intent.**

- (a) A building or structure, lawfully in existence at the effective date of the ordinance from which this chapter is derived, which shall be made nonconforming at the passage of this chapter or any applicable amendment thereto, may be continued except as otherwise provided in this article.
- (b) A building or structure is, for the purposes of this chapter, nonconforming if the building or structure or any physical characteristics thereof is not in full compliance with all regulations of the zoning district in which it is situated.
- (c) The intent of this division is to exempt Town-owned municipal buildings and structures which are at least fifty (50) years old from Article IV, NONCONFORMITIES, Division 3, Buildings and Structures.
- (d) It is further the intent that, by the provisions of this chapter or by amendments that may be adopted, there may exist buildings 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 buildings and structures to exist until they are voluntarily removed, removed by abandonment, or otherwise removed as required by this chapter, but not to encourage their survival. Such ~~(d) It is further the intent of this chapter that nonconforming buildings and structures are allowed to be enlarged, expanded or extended, provided that said enlargement, expansion or extension meets all of the lot yard and bulk regulations for the zoning district in which the building or structure is located and provided that said enlargement, expansion or extension is not used as grounds for adding other buildings or structures prohibited elsewhere, in the same district.~~

**Section 3.** Article VI, DISTRICT REGULATIONS, Section 134-790, Special exception uses, is hereby amended to add a special exception use and renumber special exception uses to read as follows:

**Sec. 134-790. Special exception uses.**

The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the R-AA large estate residential district are as follows:

- (1) Planned unit development (see article V of this chapter for standards).
- (2) Public structures west of Lake Trail.
- (3) Essential services related to Town-owned municipal buildings and structures.
- (34) Beach houses intended for the use of family and guests.
- (45) Municipally owned and operated parks and recreation areas.
- (6) ~~Reserved~~ Private, social, swimming, golf, tennis and yacht clubs, and houses of worship in existence prior to January 1, 1996...

**Section 4.** Article VI, DISTRICT REGULATIONS, Section 134-840, Special exception uses, is hereby amended to add a special exception use and renumber special exception uses read as follows:

**Sec. 134-840. Special exception uses.**

The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the R-A estate residential district are as follows:

- (1) Planned unit development (see article V of this chapter for standards).
- (2) Public structure.
- (3) Essential services related to Town-owned municipal buildings and structures.
- (34) Beach houses intended for the use of family and guests
- (45) Municipally owned and operated parks and recreation areas.
- (6) ~~Reserved~~. Private, social, swimming, golf, tennis and yacht clubs, and houses of worship in existence prior to January 1, 1996

...

**Section 5.** Article VI, DISTRICT REGULATIONS, Section 134-890, Special exception uses, is hereby amended to add a special exception use and renumber special exception uses to read as follows:

**Sec. 134-890. Special exception uses.**

The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the R-B low density residential district are as follows:

- (1) Planned unit development, PUD(1) (see article V of this chapter for standards).
- (2) Public structures west of Lake Trail.
- (3) Essential services related to Town-owned municipal buildings and structures.
- ...
- (1415) Municipally owned and operated parks and recreation ~~centers~~ areas.

**Section 6.** Article VI, DISTRICT REGULATIONS, Section 134-945, Special exception uses, is hereby amended to add a special exception use and renumber special exception uses to read as follows:

**Sec. 134-945. Special exception uses.**

The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the R-C medium density residential district are as follows:

- (1) Planned unit development, PUD-2, PUD-3.
- (2) Public structures/uses.
- (3) Essential services related to Town-owned municipal buildings and structures.

...

- (~~14~~15) Municipally owned and operated parks and recreation areas.

**Section 7.** Article VI, DISTRICT REGULATIONS, Section 134-1000, Special exception uses, is hereby amended to add a special exception use and renumber special exception uses to read as follows:

**Sec. 134-1000. Special exception uses.**

The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the R-D(1) moderate density residential district are as follows:

- (1) Planned unit development, PUD-2, PUD-3.
- (2) Public structures/uses.
- (3) Essential services related to Town-owned municipal buildings and structures.

...

- (~~11~~12) Municipally owned and operated parks and recreation areas.

**Section 8.** Article VI, DISTRICT REGULATIONS, Section 134-1055, Special exception uses, is hereby amended to add a special exception use and renumber special exception uses to read as follows:

**Sec. 134-1055. - Special exception uses.**

The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the R-D(2) high density residential district are as follows:

- (1) Planned unit development, PUD-2, PUD-3.
- (2) Public structures/uses.
- (3) Essential services related to Town-owned municipal buildings and structures.

...

- (~~17~~18) Municipally owned and operated parks and recreation areas.

**Section 9.** Article VI, DISTRICT REGULATIONS, Section 134-1109, Special exception uses, is hereby amended to add a special exception use and to renumber special exception uses to read as follows:

**Sec. 134-1109. Special exception uses.**

(a) The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the C-TS town-serving commercial district are as follows:

- (1) Public or private parking lots or storage garages.
- (2) Auto rental lots.
- (3) Residential tenancy above the first floor.
- (4) Private social, swimming, golf, tennis and yacht clubs.
- (5) Service stations.
- (6) Public structures/uses.
- (7) Essential services related to Town-owned municipal buildings and structures.
- ...
- (~~21~~22) Outdoor promotional events. See section 134-2115 for additional conditions and criteria.

**Section 10.** Article VI, DISTRICT REGULATIONS, Section 134-1159, Special exception uses, is hereby amended to add a special exception use and to renumber special exception uses to read as follows:

**Sec. 134-1159. Special exception uses.**

(a) The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the C-WA Worth Avenue district are as follows:

- (1) Pay parking.
- (2) Public or private parking or storage garages.
- (3) Private social, swimming, tennis or yacht clubs.
- (4) Public structures/uses.
- (5) Essential services related to Town-owned municipal buildings and structures.
- ...
- (~~13~~14) Outdoor seating in conjunction with permitted restaurants where administrative approval is not being requested. See section 134-1161 for additional conditions.
- (~~14~~) ~~Public structures.~~

**Section 11.** Article VI, DISTRICT REGULATIONS, Section 134-1209, Special exception uses, is hereby amended to add a special exception use and to renumber special exception uses to read as follows:

**Sec. 134-1209. - Special exception uses.**

The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the C-OPI office, professional and institutional district are as follows:

- (1) Public or private parking lot or storage garages.
- (2) Auto rental lot.
- (3) Public structures/uses.
- (4) Essential services related to Town-owned municipal buildings and structures.
- (5) ~~Reserved.~~ Supplemental parking.
- (6) Restaurants, excluding formula restaurants as defined in section 134-2.
- ....

**Section 12.** Article VI, DISTRICT REGULATIONS, Section 134-1259, Special exception uses, is hereby amended to add a special exception use and to renumber special exception uses to read as follows:

**Sec. 134-1259. - Special exception uses.**

(a) The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the C-PC planned center district are as follows:

- (1) Public or private parking or storage garages.
- (2) Private, social, swimming, tennis and yacht clubs.
- (3) Public structures/uses.
- (4) Essential services related to Town-owned municipal buildings and structures.
- ...
- (~~16~~17) Outdoor promotional events. See section 134-2115 for additional conditions and criteria.

**Section 13.** Article VI, DISTRICT REGULATIONS, Section 134-1304, Special exception uses, is hereby amended to add a special exception use and to renumber special exception uses to read as follows:

**Sec. 134-1304. - Special exception uses.**

(a) The special exception uses require a site plan ~~and~~ review as provided in article III of this chapter. The special exception uses in the C-B commercial district are as follows:

- (1) Public or private parking lots or storage garages.
- ...
- (12) Essential services related to Town-owned municipal buildings and structures.

**Section 14.** Article VI, DISTRICT REGULATIONS, Section 134-1354, Special exception uses, is hereby amended to read as follows:

**Sec. 134-1354. Special exception uses.**

The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C conservation district are as follows:

- (1) Municipally owned and operated parks and recreation areas.

- (2) All Essential services, excluding wireless telecommunication towers and distribution electrical substations

**Section 15.** Article VIII, SUPPLEMENTARY DISTRICT REGULATIONS, Section 134-1697, Structures over Lake Worth, is hereby amended to read as follows:

**Sec. 134-1697. Buildings and Structures over Lake Worth.**

With the exception of essential services related to Town-owned municipal buildings and structures, No buildings or structures shall be erected or constructed west of the established bulkhead or bulkhead line or over the water of Lake Worth except docks, which shall meet the requirements in article III, section 62-75, construction specifications. No cooking, sleeping, or business activity shall be permitted or conducted on a dock except as associated with the town's operation of its municipal docks.

**Section 17. 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 18. 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 19. Codification.**

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



**Section 20.    Effective Date.**

This Ordinance shall take effect thirty-one days after its adoption, 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 13<sup>th</sup> day of February, 2019, second reading and final adoption on this 19<sup>th</sup> day of March, 2019.

\_\_\_\_\_  
Gail L. Coniglio, Mayor

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Danielle H. Moore, Town Council President

\_\_\_\_\_  
Margaret A. Zeidman, Council President Pro Tem

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

ATTEST:

\_\_\_\_\_  
Lewis S.W. Crampton, Town Council Member

\_\_\_\_\_  
Kathleen Dominguez, Town Clerk

\_\_\_\_\_  
Bobbie Lindsay, Town Council Member