

ORDINANCE NO. 16-2019

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, ARTICLE V, COASTAL CONSTRUCTION CODE, AS FOLLOWS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Chapter 18, Buildings and Building Regulations, Article V, is hereby amended in the manner and form set forth herein:

ARTICLE V. - COASTAL CONSTRUCTION CODE

~~Sec. 18-276. — Adopted.~~

~~The coastal construction code is adopted. Provisions contained in this article shall constitute the coastal construction code for construction within the coastal building zone and coastal barrier islands in the town.~~

Sec. 18-~~277~~276. - Purpose.

The purpose of the coastal construction code is to provide ~~minimum~~ standards for the design and construction of buildings and structures to reduce the harmful effects of hurricanes and other severe storms occurring along the coastal area of the town that fronts on the Atlantic Ocean. These ~~standards~~ requirements are intended to specifically address design features that affect the structural stability of the beach, dunes and topography of adjacent properties. The coastal construction code is site specific to the coastal building zone and is not applicable to other locations. ~~In the event of a conflict between this article and other chapters of this Code, the requirements resulting in the more restrictive design shall apply. No provisions in this article shall be construed to permit any construction in any area prohibited by town, county, state or federal regulation.~~

Sec. 18-278. — Definitions.

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

Beach means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. Beach is alternatively termed "shore."

Breakaway wall or frangible wall means a partition independent of supporting structural members that will withstand design wind forces, but that will fail under hydrodynamic, wave, and runup forces associated with the design storm surge. Under such conditions, the wall shall fail in a manner such that it breaks up into components that minimize the potential for damage to life or adjacent property. It shall be a characteristic of a breakaway or frangible wall that it shall have a horizontal design loading resistance of no less than ten nor more than 20 pounds per square foot.

Building support structure means any structure that supports floor, wall or column loads, and transmits them to the foundation. The term shall include beams, grade beams or joists, and includes the lowest horizontal structural member exclusive of piles, columns or footings.

Coastal barrier islands means geological surface features of the island of Palm Beach above mean high water.

Coastal building zone means the land area between the seasonal high water line of the Atlantic Ocean and the waters of Lake Worth.

Coastal code means the coastal construction code adopted in section 18-276.

Coastal construction control line (CCCL) means the landward extent of that portion of the beach dune system subject to severe fluctuations based upon a 100-year storm surge, storm waves, or other predictable weather conditions as established by the department of natural resources in accordance with F.S. § 161.053. The CCCL is a jurisdictional boundary for the Florida Department of Environmental Protection and is not a setback line.

Construction means the building of or substantial improvement to any structure or the clearing, filling or excavation of any land. It shall also mean any alterations in the size or use of any existing structure or the appearance of any land. When appropriate to the context, "construction" refers to the act of construction or the result of construction.

Dune means a mound, hill, bluff, or ridge of loose sediments, usually sand-sized sediments, lying landward of the beach, deposited by any natural or artificial mechanism, subject to fluctuations in configuration and location, which may be bare or covered and stabilized by vegetation indigenous to this formation.

Major structure includes but is not limited to residential buildings, commercial, institutional, industrial and other construction having the potential for substantial impact on coastal zones.

Mean high water line means the intersection of the tidal plane of mean high water with the shore. Mean high water is the average height of high waters over a 19-year period, often referred to as the National Tidal Datum Epoch.

Minor structure includes but is not limited to:

- (1) — Pile supported, elevated dune and beach walkover structures.*
- (2) — Beach access ramps and walkways.*
- (3) — Stairways.*
- (4) — Pile supported, elevated viewing platforms, gazebos and boardwalks.*
- (5) — Lifeguard support stands.*

- ~~(6) — Public and private bathhouses.~~
- ~~(7) — Sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquetball courts, and other uncovered paved areas.~~
- ~~(8) — Earth retaining walls.~~
- ~~(9) — Sand fences, privacy fences, ornamental walls, ornamental garden structures, aviaries, and other ornamental construction.~~

~~It shall be a characteristic of minor structures that they are considered to be expendable under design wind, wave and storm forces.~~

~~National Tidal Datum Epoch is the specific 19-year period adopted by the National Oceanic and Atmospheric Administration National Ocean Service as the official time segment over which tide observations are taken and reduced to obtain mean values.~~

~~NGVD means National Geodetic Vertical Datum, a geodetic datum established by the National Oceanic and Atmospheric Administration National Ocean Service and frequently referred to as the 1929 mean sea level datum (renamed in 1973).~~

~~NAVD means North American Vertical Datum, the current fixed reference geodetic datum developed and maintained by the National Oceanic and Atmospheric Administration National Geodetic Society.~~

~~Nonhabitable major structure includes but is not limited to:~~

- ~~(1) — Swimming pools.~~
- ~~(2) — Parking garages.~~
- ~~(3) — Pipelines.~~
- ~~(4) — Piers.~~
- ~~(5) — Canals, lake ditches, drainage structures and other water retention structures.~~
- ~~(6) — Water and sewage treatment plants.~~
- ~~(7) — Electrical power plants, transmission and distribution lines, transformer pads, vaults and substations.~~
- ~~(8) — Roads, bridges, streets and highways.~~
- ~~(9) — Underground storage tanks.~~

~~One hundred-year storm means a shore incident hurricane or any other storm with accompanying wind, wave and storm surge intensity having a one-percent chance of being equaled or exceeded in any given year, during any 100-year interval.~~

~~Seasonal high water line means the line formed by the intersection of the rising shore and the elevation of 150 percent of the local mean tidal range above mean high water.~~

~~State minimum building code means the building code adopted by a municipality or county pursuant to the requirements of F.S. § 553.73.~~

~~Substantial improvement means any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of the improvement or repair of the structure to its pre-damage condition equals or exceeds 50 percent of the market value of the structure either:~~

- ~~(1) — Before the improvement or repair is started; or~~
- ~~(2) — If the structure has been damaged and is being restored, before the damage occurred.~~

~~The total cost does not include nonstructural interior finishings, including, but not limited to, finish flooring and floor coverings, base molding, nonstructural substrates, drywall, plaster, paneling, wall covering, tapestries, window treatments, decorative masonry, paint, interior doors, tile, cabinets, moldings and millwork, decorative metal work, vanities, electrical receptacles, electrical switches, electrical fixtures, intercoms, communications and sound systems, security systems, HVAC grills and decorative trim, freestanding metal fireplaces,~~

~~appliances, water closets, tubs and shower enclosures, lavatories, and water heaters, or roof coverings, except when determining whether the structure has been substantially improved as a result of a single improvement or repair.~~

~~For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or the state inventory of historic places.~~

~~Sec. 18-279. Scope.~~

~~(a) Applicability. The requirements of this coastal code shall apply to the following types of construction in the coastal building zone and on coastal barrier islands in the town:~~

- ~~(1) The new construction of or substantial improvements to major structures, nonhabitable major structures, and minor structures.~~
- ~~(2) Construction that would change or otherwise have the potential for substantial impact on coastal zones (e.g., excavation, grading, paving).~~
- ~~(3) Construction located partially within the coastal building zone.~~
- ~~(4) Reconstruction, redevelopment or repair of a damaged structure from any cause that meets the definition of substantial improvement.~~

~~(b) Exceptions. The requirements of the coastal code shall not apply to the following:~~

- ~~(1) Minor work in the nature of normal beach cleaning and debris removal.~~
- ~~(2) Structures in existence prior to the effective date of the ordinance from which this article was derived, except for substantial improvements as defined in section 18-278.~~
- ~~(3) Construction for which a valid and unexpired building permit was issued prior to the effective date of the ordinance from which this article was derived.~~
- ~~(4) Construction extending seaward of the seasonal high water line regulated by the provisions of F.S. § 161.041 (e.g., groins, jetties, moles, breakwaters, seawalls, piers, revetments, beach nourishment, inlet dredging, etc.).~~
- ~~(5) Construction of nonhabitable major structures, except for the requirements of section 18-281(e).~~
- ~~(6) Construction of minor structures, except for the requirements of section 18-281(d).~~
- ~~(7) Structures listed in the National Register of Historic Places or the state inventory of historic places or protected by chapter 54.~~
- ~~(8) Construction for improvement of a major structure to comply with existing state or local health, sanitary or safety code specifications solely necessary to assure safe living conditions.~~

~~(c) Application for permits. Applications for building permits for construction in the coastal building zone and on coastal barrier islands, if not of normal or usual design, may be required by the building official to be certified by an architect or professional engineer registered in the state. Such certifications shall state that the design plans and specification for the construction are in compliance with the criteria established by this coastal code.~~

~~Sec. 18-280. Coastal construction requirements.~~

~~Construction within the coastal building zone and on coastal barrier islands shall meet the requirements of this article. All structures shall be designed so as to minimize damage to life, property and the natural environment. Assistance in determining the design parameters to minimize such damage may be found in the reference documents listed in section 18-282.~~

~~Sec. 18-281.277. - Requirements.~~

- (a) Location of construction. Construction, except for elevated walkways, lifeguard support stands, piers, beach access ramps, gazebos, and coastal or shore protection structures, shall be located a sufficient distance landward of the beach to permit natural shoreline fluctuations, and to preserve dune stability. Construction, including excavation, may occur to the extent that the natural storm buffering and protection capability of the dune is not diminished.
- (b) Public access. Where the public has established an accessway through private lands to lands seaward of mean high tide or water line prescription, prescriptive easement, or other legal means, development or construction shall not interfere with such right of access unless a comparable alternative accessway is provided. The property owner or developer shall have the right to improve, consolidate, or relocate such public accessways so long as they are:
 - (1) Of substantially similar quality and convenience to the public;
 - (2) Approved by the local government and approved by the ~~department of natural resources~~Florida Department of Environmental Protection (DEP) whenever improvements are involved seaward of the coastal construction control line; and
 - (3) Consistent with the coastal management element of the local comprehensive plan adopted pursuant to F.S. § 163.3178.

~~Sec. 18-282. - Reserved.~~

~~Sec. 18-283. - Penalties.~~

~~Any person or entity found to be in violation of the provisions of any section of the coastal code or article by the code enforcement board, shall be fined not more than \$250.00 per day. Each day such violation shall continue, shall constitute a separate offense. In lieu of such fine, or in addition thereto, such person, if licensed to do business within the town, may have such license suspended for a definite period of time, or such license may be revoked, such revocation to be subject to concurrence of the county construction industry licensing board where applicable, as contained in Laws of Fla., ch. 67-1876, as amended by Laws of Fla., ch. 69-1433 and as may be further amended.~~

Secs. 18-~~284278~~—18-300. - Reserved.

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

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

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

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

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach, Florida, on the First Reading this ____ day of _____, 2019; and for the Second and Final Reading on this ____ day of _____, 2019.

Gail L. Coniglio, Mayor

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