



The TOWN OF PALM BEACH
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
(561) 838-5430 • www.townofpalmbeach.com

PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Memorandum: Planning and Zoning Commission

TO: Chair and Members of the Commission

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

FROM: Jennifer Hofmeister-Drew, AICP
Planner III

SUBJECT: AMENDMENT TO THE REQUIREMENTS FOR MECHANICAL EQUIPMENT IN
MULTI-FAMILY AND COMMERCIAL ZONING DISTRICTS

MEETING: June 7, 2023

RECOMMENDED ACTION

Staff recommends that the Planning and Zoning Commission (PZC) provide a recommendation for approval on the proposed Code language related to mechanical equipment, including generators, in multifamily and commercially zoning districts and provide a recommendation for approval to the Town Council.

GENERAL INFORMATION

Town planning staff was directed to proceed with amending a number of code amendments that can be addressed outside of the Code review work being performed by ZoneCo. The subject code amendment seeks to address the current industry standards for necessary mechanical equipment in multifamily and commercial zoning districts. At the same time, the proposed text language balances the impacts on adjacent properties and the general public by permitted generators on the rooftops of multifamily and commercial zoning districts with added setbacks on rooftops and screening. More specifically, the proposed text amendment will amend two (2) sections within Article III, Supplementary District Regulations. Amended language in Section 134-1607 is proposed to the permitted exceptions to increase the maximum height regulations for mechanical equipment for commercial and multifamily zoning districts. To protect the interests of the public, the language with regard to required screening is now explicit and required setbacks for single-story and two (2) or more story buildings has been added. Additionally, Section 134-1729 has been amended to allow for generators as rooftop equipment in multifamily and commercial zoning districts.

The proposed text amendment was reviewed by the PZC on May 3, 2023 and recommended to Town Council for consideration. At the May 10, 2023, Town Council meeting, staff was directed to have the PZC re-evaluate the proposed text language with graphic illustrations and pictures of mechanical equipment, including generators, within the proposed setbacks.

WRB:JGM:JHD

ORDINANCE NO. 012-2023

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, ARTICLE VIII, SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 3. –HEIGHT AND OTHER EXCEPTIONS AND DIVISION 6. – STRUCTURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Chapter 134, Zoning, Article VIII, Supplementary District Regulation, Division 3. – Height and Other Exceptions, is hereby amended as follows:

Sec. 134-1607. - Permitted exceptions.

Permitted exceptions to height regulations in this chapter in districts other than R-AA, R-A and R-B shall be as follows:

- (1) In all zoning districts other than R-AA. R-A and R-B districts, structures for the housing of elevators, stairways, tanks, mechanical equipment, including generators, and skylights not exceeding ten percent in total area of the roof area on which they are placed, skylights not more than four feet in height above the roof; ~~ventilating fans not exceeding three feet in height above the roof or similar equipment to operate and maintain a building; air conditioning equipment not exceeding four feet above the minimum building requirement for elevated stands on a roof;~~ radio and television antennas for reception purposes only; and church steeples, flagpoles and chimneys no more than 40 percent above the height limits for the district within which they are located as prescribed by this chapter. Flagpoles in excess of this height may be permitted by special exception on properties of greater than five acres provided the flagpole is not in excess of 70 feet in height and is set back at least 120 feet from any lot line. Such structures located upon the roof area shall not cover in the aggregate a roof area greater than 15 percent of the ground floor area of such building or structure. Radio and television antennas for reception purposes, ~~air conditioning equipment,~~ the housing of elevators, stairways, tanks, mechanical equipment, including generators, ventilating fans or similar equipment to operate and maintain a building which are permitted on the roof shall be sight screened from view to the same height as the mechanical equipment, not to exceed eight (8) feet in height, to reduce visibility to the maximum extent possible. in so far as possible Mechanical equipment, including generators, shall be set back from the exterior walls of a single-story structure by at least 15 feet and by 10 feet for a two (2) story structure. Solar

material shall be permitted on the roof provided said material is approved by the Architectural Commission or Landmark Preservation Commission.

Section 2. Chapter 134, Zoning, Article VIII, Supplementary District Regulation, Division 6. Structures, is hereby amended as follows:

Sec. 134-1729. - Generators.

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 the required front, street side or street rear yard setbacks; provided, however, not more than one such generator shall be placed in any given within the same required side or rear yard setback.

- (1) One 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 generator is within the same required yard area. Said generator(s) shall be allowed five feet from a side or rear property line provided said generator meets the following requirements:
 - a. There is only one generator within that required yard area.
 - b. The generator(s) shall not, at any time or for any purpose, exceed the maximum decibels allowed at the property line as set forth in section 42-228.
 - c. The highest point on the generator(s) shall not exceed a maximum of seven feet above the neighboring property owner's grade or zero datum as defined in the appropriate definition of building height in section 134-2.
 - d. The generator(s) shall be completely screened from a street and the neighboring property owners by a concrete wall the same height as the generator(s) (including the height of the exhaust muffler). An adjacent property owner's existing side or rear concrete wall that completely screens the generator from the neighbor adjacent to that generator can satisfy said requirement provided the wall meets the height requirement to screen the generator 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 neighbor remove their wall.
 - e. 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.
 - f. The generator's exhaust shall, as much as practically feasible, be vented upwards or directed away from neighboring properties.
 - g. 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.

- h. 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 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 p.m. and 3:00 p.m.
 - i. Testing may be conducted when the unit is being repaired, provided that such testing period shall not exceed 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.
 - j. Generators shall ~~not~~ be permitted on the roof of a commercial and multi-family building.
- (2) Temporary or permanent generators with a combined output of greater than 60 KW or more may be temporarily placed on the ground, on a stand or on a trailer provided, however, said generator(s) meets the following requirements:
- a. A generator(s) shall meet the minimum setback requirements applicable to a principal structure and not more than one generator shall be within the same required setback or yard area.
 - b. The generator shall ~~not~~, at any time or for any purpose, exceed the maximum decibels allowed at the property line as set forth in section 42-228.
 - c. 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 as defined in sections 134-326—134-330. If any individual generator output capacity exceeds 100 KW it shall be housed in an enclosed building with landscaping as approved by the Architectural Commission or Landmarks Preservation Commission, whichever is applicable.
 - d. If the generator exceeds 60KW and is 100KW or less, it shall be screened from view at the street and from the neighboring properties by a concrete block wall, at least the same height as the generator (including the height of the exhaust muffler). An adjacent property owner's side or rear concrete wall that completely screens the generator from the neighbor adjacent to said generator can count towards screening provided that the wall meets the height requirement to screen the generator 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 neighbor remove their wall.
 - e. If the generator is visible from a street or public way, its location shall be subject to approval by the Architectural Commission or Landmarks Preservation Commission, as applicable. Intervening landscape material shall not be considered when determining a generator's visibility.
 - f. The generator'(s) exhaust shall, as much as practically feasible, be vented upwards or directed away from neighboring properties.
 - g. The generator(s) shall be used only during periods of power outages, periods of power reductions resulting from the exercise of utility load control programs or for

periodic testing and necessary maintenance operation and shall not be used to sell power back to a power company.

- h. 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 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 p.m. and 3:00 p.m.
- i. Testing may be conducted when the unit is being repaired, provided that such testing period shall not exceed 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.
- j. Generators shall ~~not~~ be permitted on the roof of a commercial and multi-family building.

Section 3. 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 4. 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 5. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

Section 6. Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

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

Danielle H. Moore, Mayor

Margaret Zeidman, Town Council President

Bobbie Lindsay, President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Lewis S.W. Crampton, Town Council Member

Kelly Churney, Acting Town Clerk

Edward Cooney, Town Council Member

DRAFT