

TOWN OF PALM BEACH

Information for Town Council Meeting on:

October 11, 2023

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building



Re: Permit Time Extensions – Ordinance 017-2023 - First Reading

Date: September 20, 2023

FOR YOUR INFORMATION

The Town Council discussed Permit Time Extensions at their September 2023 meeting. They provided direction to staff to prepare an ordinance that would expand and formalize neighbor notice of the time extensions and provide staff limited capability to administratively extend permits for no more than thirty (30) days. This short extension would be to allow projects expiring to continue until the Town Council can review the request at a regularly scheduled meeting, or to close out projects that are within thirty days of completion.

These changes will occur within Chapter 18, Buildings and Building Regulations. The expanded and formalized notice requirement was suggested by the Town Council to match the current uniform notice requirements of 300 feet from the subject property. These notices would be sent via first class mail service and will include a USPS Certificate of Mailing. This change, and the brief administrative extensions, are proposed as amended footnotes to Table 1, Construction Schedule, found in Section 18-237.

During my review of this Article, I noticed some outdated code that I propose to be updated in the ordinance. First, the Chapter 18 definition of “substantial improvement” can be removed, as it is now defined in the Florida Building Code. We should not have conflicting definitions on this item. Second, I noticed that the building official is appointed by the director of planning, zoning, and building. This is incorrect, as the Town Manager makes this appointment. These changes are

included in the draft ordinance.

Ordinance 017-2023 has been reviewed by the Town Attorney as to legal form. This Ordinance is ready for approval on First Reading.

Attached: Draft Ord. No. 017-2023

ORDINANCE NO. 017-2023

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, SPECIFICALLY AT ARTICLE IV, FLORIDA BUILDING CODE, SECTION 18-232, DEFINITIONS, SECTION 18-235, BUILDING DIVISION, AND SECTION 18-237, AGREED MAXIMUM TIME SCHEDULE FOR COMPLETION OF MAJOR CONSTRUCTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE 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, the Town Code of Ordinances, is hereby amended at Article IV, Section 18-232, Definitions, by deleting the definition of Substantial Improvement, as this term is now defined and addressed within Chapter 50, Floods:

"Sec. 18-232. - Definitions.

....

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a one-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the one-year period begins on the date of the first permit issued for improvement or repair of that building or structure subsequent to (see Note). If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

(1) — Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

(2) — Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure."

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Section 2. Chapter 18, Buildings and Building Regulations, the Town Code of Ordinances, is hereby amended at Article IV, Section 18-235, Building Division, by amending the sentence, as follows:

"Sec. 18-235. - Building division.

There is hereby established a division to be called the building division and the person in charge shall be known as the building official, who shall be appointed by the Town Manager ~~director of planning, zoning and building.~~"

Section 3. Chapter 18, Buildings and Building Regulations, the Town Code of Ordinances, is hereby amended at Article IV, Section 18-237, Agreed Maximum Time Schedule for Completion of Major Construction, by amending the footnotes, as follows:

"Sec. 18-237. - Agreed maximum time schedule for completion of major construction.

....

TABLE 1. CONSTRUCTION SCHEDULE

| | <i>Square Footage Under Roof</i> | <i>New Construction* Maximum Time Permitted</i> | <i>Remodel / Accessory Construction Maximum Time Permitted</i> |
|-------------|--|--|--|
| <i>I.</i> | <i>Projects 3,999 sq. ft. or less</i> | <i>16 months</i> | <i>16 months</i> |
| <i>II.</i> | <i>Projects 4,000 sq. ft. to 5,999 sq. ft.</i> | <i>20 months</i> | <i>24 months</i> |
| <i>III.</i> | <i>Projects 6,000 sq. ft. to 9,999 sq. ft.</i> | <i>24 months</i> | <i>30 months</i> |
| <i>IV.</i> | <i>Projects 10,000 sq. ft. to 19,999 sq. ft.</i> | <i>30 months</i> | <i>36 months</i> |
| <i>V.</i> | <i>Projects 20,000 sq. ft. to 39,999 sq. ft.</i> | <i>36 months</i> | <i>42 months</i> |
| <i>VI.</i> | <i>Projects larger than 40,000 sq. ft. <u>or more</u></i> | <i>To be determined by town council prior to permit issuance</i> | <i>To be determined by town council prior to permit issuance</i> |

** Principal structure*

(a) Requests for extension from this schedule will be considered by the town council and approval may be granted for good cause shown as determined in the sole discretion of the town council. Said request for extension shall be filed with the town by the contractor and the owner no later than 30 calendar days, ~~nor earlier than six months,~~ prior to the scheduled ~~completion~~ building permit expiration date. The request for extension shall include reasons for the necessity of granting an extension, a revised construction schedule, proposed nuisance mitigation measures, ~~and~~ a statement that first class mailed notice to neighbors within 300 ~~200~~ feet will be provided at least 25 days prior to the meeting at which the extension is to be considered, and a USPS Certificate of Mailing as proof of the mailed notice. In the event the town council determines that good cause is not shown for granting the extension, the council may deny the extension. In the event the town council grants an extension, it may impose conditions on the extension which may include the implementation of mitigation measures deemed appropriate by the council and the imposition of a fee as established by resolution by the town council for each day of the extension beyond the term set forth in the above stated construction schedule.

(b) In the event no request is made for extension of time from the above referenced schedule, the building permit shall be immediately revoked and all work shall cease and desist

~~on the project. In order to resume work, the contractor and the owner must apply to the town council for an extension of time. The application for extension shall include reasons for the necessity of granting an extension of time, a revised construction schedule, proposed nuisance mitigation measures, and a statement that notice to neighbors within 200 feet will be provided at least 25 days prior to the hearing before town council to consider the extension of time. The town council, in its sole discretion, may grant or deny the extension. In the event the town council grants an extension, it may impose conditions on the extension which may include the implementation of mitigation measures deemed appropriate by the council and the imposition of a fee as established by resolution by the town council for each day of the extension beyond the term set forth in the above state construction schedule. If an extension of time is granted, a new permit application is required and a permit reactivation fee shall be paid.~~

(c) Failure of the permit holder and/or the property owner to complete the construction within the preceding time table or within the time extension granted by the town council constitutes prima facie evidence that the building project has not been commenced or has been suspended or abandoned. All permits will be terminated, and all work at the site will stop immediately until the applicant and owner apply for and receive a reinstatement of the permit by the town council. If conditions are attached to the re-issuance, the permit may be reissued by the building official only upon continued conformance to the conditions established by the town council. Any conditions attached to re-issuance are conditions of all applicable permits and applicant and owner accept such conditions upon acceptance of a permit. The issuance of the certificate of occupancy or completion will be withheld until any fees incurred under this section are paid. If the town council does not approve the extension of time, applicant and owner may be required by the town council to remove all evidence of construction, and ensure that the project conforms to all applicable provisions of the code. Failure to cease construction or conform to all codes constitutes a violation and will be referred to the town's code enforcement board.

(d) Town staff may choose to administratively extend building permits up to thirty (30) days, based upon good cause shown, to allow an applicant to schedule an appearance before the town council, or to complete a project, without appearing before the town council. This administrative approval cannot exceed thirty (30) days."

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, Florida.

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 _____, 2023, and for second and final reading on this ____ day of _____, 2023.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie D. Lindsay, Council President Pro Tem

ATTEST:

Julie Araskog, Town Council Member

Edward A. Cooney, Town Council Member

Kelly Churney, Acting Town Clerk

Lewis S.W. Crampton, Town Council Member

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