

ORDINANCE NO. 0-12-18

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, AMENDING APPENDIX A. ZONING. OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH SHORES AT SECTION II. DEFINITIONS. TO PROVIDE FOR CROSS-REFERENCE TO DEFINITIONS IN CHAPTER 82. WATERWAYS., REVISE THE DEFINITION OF "ACCESSORY USE OR STRUCTURE," REMOVE THE DEFINITION OF "MARINA," AND TO ADD AN ENTIRELY NEW DEFINITION FOR THE TERM "PRIMARY USE;" AT SECTION V. DISTRICT A REGULATIONS., SECTION PF. 5.1. PERMITTED USES. TO ADD PRIVATE DOCKS AS A PERMITTED USE WITHIN ZONING DISTRICT A; AT SECTION VII. DISTRICT C REGULATIONS., SECTION PF. 7.2. PERMITTED AND SPECIAL EXCEPTION USES. TO ADD COMMERCIAL DOCKS AND MARINAS AS SPECIAL EXCEPTION USES WITHIN ZONING DISTRICT C AND PROVIDE FOR THE TYPES OF ANCILLARY AND SUPPORT USES AFFILIATED WITH EACH; AND AT SECTION VII. DISTRICT C REGULATIONS., SECTION PF. 7.13. OFF-STREET PARKING. TO ADD PARKING STANDARDS AND REGULATIONS FOR COMMERCIAL DOCKS; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF APPENDIX A. ZONING. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ENACTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town Commission of the Town of Palm Beach Shores hired Taylor Engineering, Inc. to review the Town's Code of Ordinances related to docks and provide recommendations and proposed revisions to the Town Commission; and

WHEREAS, such revisions are intended to incorporate existing conditions into the Town Code, as well as provide new standards and regulations for both private and commercial docks to guide future development within the Town; and

WHEREAS, as part of the scope of services provided by Taylor Engineering, Inc., two (2) public joint workshops were held with the Town Commission and the Planning and Zoning Board to obtain public input and to discuss existing conditions, regulations and recommended revisions; and

WHEREAS, Taylor Engineering, Inc. provided its draft report, Proposed Revisions to Code of Ordinances, Town of Palm Beach Shores Marine Dock Codes Review, dated August 15, 2018, which included recommended revisions to various sections of the Town Code to provide clearer regulation of both private and commercial docks in Town; and

WHEREAS, an additional Joint Workshop was held with the Town Commission and the Planning and Zoning Board to review the draft report and provide for additional public input into the revision process; and

WHEREAS, based on the recommendations and suggested revisions provided by Taylor Engineering, Inc., public comment from the various workshop meetings, and thorough discussion between and among the Town Commission and the Planning and Zoning Board, the Town Commission desires to amend the Town Code of Ordinances at Appendix A. Zoning. to revise select definitions and amend the permitted and special exception uses in Zoning Districts A and C to account for private and commercial docks; and

WHEREAS, the Town Commission has determined that such amendments to the Town's Code are in the best interests of the health, safety, and welfare of the citizens of the Town of Palm Beach Shores.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, THAT:

Section 1: Appendix A. Zoning. of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended at Section II. Definitions. to provide for cross-reference to definitions in Chapter 82. Waterways., to revise the definition of "accessory use or structure," remove the definition of "marina," and to add an entirely new definition for the term "primary use"; providing that Pf. 2.1, Pf. 2.2, Pf. 2.34 and Pf. 2.35.1 shall hereafter read as follows:

Pf. 2.1. - Generally.

For the purpose of this Zoning Ordinance, certain terms or words used herein shall be interpreted as follows:

The word person includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word shall is mandatory, the word may is permissive.

The words used or occupied include the words intended, designed, or arranged to be used or occupied.

The word land includes the word water unless the context clearly requires otherwise.

The word lot includes the words plot, parcel, or tract.

The word structure includes the word building as well as other things constructed or erected on the ground, attached to something having location on the ground, or requiring construction or erection on the ground.

The words time share dwelling unit and plan shall be as now or hereafter defined in *Definitions* of Section 718.103(19) and (20) and Section 721.05(1), (7), (14) and (15), Florida Statutes.

For definitions related to docks, marinas and water-dependent facilities, refer to Chapter 82, Waterways., Section 82-50. Definitions.

Pf. 2.2. - Accessory use or structure.

A use, building or structure, or part of a building or structure which:

- (1) Is subordinate to and serves the primary building or structure or primary use;
- (2) Is subordinate in area, extent, or purpose to the primary building or structure or primary use served;
- (3) Contributes to the comfort, convenience, or necessity of occupants of the primary building or primary use; and
- (4) Is located on the same zoning lot/building site as the primary building or structure or primary use served, with the exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot as the building or use served.

~~An accessory use or structure is a use or structure of a nature customarily incidental and subordinate to the principal use or structure and, unless otherwise provided, on the same premises.~~

~~On the same premises with respect to accessory uses and structures shall be construed as meaning on the same lot or on a contiguous lot in the same ownership. Where a building is attached to the principal building, it shall be considered a part thereof, and not an accessory building. Home occupations as defined as subsection 18-29(b) are considered accessory uses for single family and~~

~~multiple family residential units so long as all requirements set forth in subsection 18-29(b) are observed.~~

Pf. 2.34. -~~Marina. Reserved.~~

~~A facility designed to provide a variety of services for boaters such as the sale of gasoline, oil for boating purposes only and accessories; renting or leasing of boat slips; sale of ice and/or bait. Marinas shall be allowed as accessory uses for motels and hotels in the "C" Zoning District; or as a Special Exception use in the "C" Zoning District. Sport fishing boats for hire (i.e. charter boats) shall be allowed by Special Exception in the "C" Zoning District only.~~

Pf. 2.35.1 – Primary use.

An activity or combination of activities of chief importance on the zoning lot/building site. The main purposes for which the land or structures are intended, designed or ordinarily used. A zoning lot may have more than one Primary use. See also Accessory use or structure.

Section 2: Appendix A. Zoning. of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended at Section V. District A Regulations., Pf. 5.1. Permitted uses. to add private docks as a permitted use within Zoning District A; providing that Pf. 5.1. Permitted uses. shall hereafter read as follows:

Pf. 5.1. - Permitted uses.

Permitted uses in District A shall be only the following:

- (a) One-family dwelling for occupancy by only one family. Boarding houses and/or rooming houses, as defined at Pf. 2.7 are prohibited as a use in this zoning district.
- (b) Private horticulture nurseries, greenhouses, and garden work centers, where such activity is carried on only for the personal enjoyment of the lot occupant and no sales of plant materials are made.
- (c) Accessory buildings for uses customarily incident to any of the above uses including private garages for motor vehicles when located on the same lot.

(d) Private docks. No private dock shall be used for any purpose other than the private use of the property owner or his guests and no commercial use or purpose shall be made of any docks whatsoever.

Section 3: Appendix A. Zoning. of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended at Section VII. District C Regulations. Pf. 7.2. Permitted and special exception uses. to add commercial docks and marinas as special exception uses within Zoning District C and to provide for the types of ancillary and support uses affiliated with each; providing that Pf. 7.2. Permitted and special exception uses. shall hereafter read as follows:

Pf. 7.2. - Permitted and special exception uses.

(a) Permitted uses.

- (1) Any uses permitted in Districts "A" & "B" except for group home facilities which are only allowed in Zoning District "B". All setbacks shall meet the minimums specified in this section below for District "C".
- (2) Hotels and motels.
- (3) Accessory uses may include uses of a nature customarily incidental and subordinate to the principal use. Such uses may include stores, shops, dining rooms, bars or taverns, and lawfully incorporated private clubs with or without bars, when such facilities are for the main and principal purpose of serving residents and guests of the establishment. Facilities of the types listed in the preceding sentence must be an integral part of the principal building and entrances to such facilities shall not open or front upon any public street. Additional accessory uses may also include recreational amenities, facilities or concessions when such facilities are for the main and principal purpose of serving residents and guests of the establishment. Marinas, as defined in section 82-50Pf. 2.34, hereinabove are allowed as accessory uses for motels and hotels in the "C" Zoning District only and shall be consistent with the standards, limitations and requirements associated with marinas provided in Chapter 82 – Waterways, Article III – Docks, Marinas and Water-Dependent Facilities of this Code of Ordinances. There shall be no rental of any watercraft allowed within the Town except at commercial docks and marinas in the C Zoning District

consistent with the requirements established in Chapter 82 of the Town Code of Ordinances.

(b) Special exception uses.

(1) Commercial docks ~~Marinas.~~ Ancillary and support services provided at commercial docks shall be limited to:

a. Renting or leasing of boat slips.

b. Charter boats.

(2) Marinas. Ancillary and support services provided at marinas shall be limited to:

a. Sale of gasoline, diesel and oil for boating purposes only.

b. Renting or leasing of boat slips.

c. Sale of ice or bait, and other fishing equipment or supplies.

d. Retail sale of marine supplies.

e. Accessory on-shore retail and eating facilities.

f. Servicing (marine).

g. Pump-out services.

h. Charter boats.

Commercial docks and marinas must comply with the standards, limitations and requirements associated with marinas provided in Chapter 82 – Waterways, Article III – Docks, Marinas and Water-Dependent Facilities of this Code of Ordinances.

~~(2) Boats for hire. (Charter boats).~~

(c) Boarding houses and/or rooming houses. Boarding houses and/or rooming houses, as defined at Pf. 2.7. are prohibited as a use in this zoning district.

Section 4: Appendix A. Zoning. of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended at Section VII. District C Regulations., Section Pf. 7.13. Off-street parking. to add parking standards and regulations for commercial docks; providing that Section Pf. 7.13. Off-street parking. shall hereafter read as follows:

Pf. 7.13. - Off-street parking.

(a) Multi-family residences. Multiple-family residences shall have a minimum of one and one-quarter (1¼) off-street parking spaces for each hotel and motel room, one-bedroom or

efficiency apartment. One and one-half (1½) parking spaces for two-bedroom apartments with one-half (½) space for each additional bedroom. Off-street parking spaces shall be paved and marked with a minimum size of nine by twenty (9 × 20) feet, except for establishments offering services (food, drink, supplies, etc.) whose minimum size shall be ten by twenty (10 × 20) feet, and so arranged that any vehicle may be parked and removed without moving any other vehicle. Parking area and arrangement of spaces shall be shown on the original building plans submitted to the Planning and Zoning Board for approval and for all modifications to the previously approved site plan.

(b) Accessory Uses. Where accessory uses under Pf. 7.2(e)(a)(3) above are included as a part of a building, additional off-street parking spaces shall be provided at the ratio of one off-street parking space for each three (3) seats in private clubs, dining rooms, bars, or taverns, and at the ratio of one off-street parking space for each two hundred (200) square feet of gross floor area in shops or stores. Such additional parking facilities need not be on the same building site as the principal establishment; provided that the proposed location is located within the same zoning district as the principal use it is designed to serve if located within the Town corporate limits. Additionally, the owner of the principal establishment shall submit to the Town a written agreement with the owner of the off-site parking area. Such agreement must be approved by the Town Commission prior to the use of the off-site parking area. All uses supported by off-site parking shall automatically cease should the agreement for off-site parking terminate for any reason, whatsoever, and such uses shall not be re-instituted unless and/or until another off-site parking agreement has been provided to the Town and approved by the Town Commission. All uses supported by off-site parking shall automatically cease should either jurisdiction cease permitting off-site parking within their jurisdiction. Valet parking is hereby prohibited unless specifically approved by the Town Commission as part of a site plan review or site plan modification.

(c) Commercial Docks and Marinas. For commercial docks and marinas approved as special exception uses under Pf. 7.2(b)(1) or (2), the upland site shall provide:

(1) Ancillary and support services include private clubs, dining rooms, bars or taverns. Parking shall be provided at the ratio of one (1) off-street parking space for each three (3) seats in the private club, dining room, bar or tavern;

(2) Ancillary and support services include shops or stores. Parking shall be provided at the ratio of one (1) off-street parking space for each two hundred (200) square feet of gross floor area in the shop or store;

(3) Boat Slips. Parking shall be provided at a ratio of 0.75 parking space for every boat slip available;

(4) Ancillary and support services which include charter boats. Parking shall be provided as follows:

- a. Any or all charter boats shall first secure a town business tax receipt and certificate of use for that purpose. Prior to the issuance of the business tax receipt and certificate of use, the applicant must demonstrate that there is adequate parking for this use in addition to the parking required for other uses located on the same property.
- b. Parking area and arrangements of spaces shall be shown on the application plans and must be submitted to the building official and approved by the planning and zoning board prior to issuance of an occupational license.
- c. Parking spaces for charter boats shall be paved and marked, with a minimum size of 10 by 20 feet (10' x 20') each, and so arranged that any other vehicle may be parked and removed without moving any other vehicle. Parking spaces shall be provided at the ratio of 1½ parking spaces for each boat slip so used, plus one (1) parking space is required for every three (3) passengers allowed to be carried as a passenger on such vessel as designated in the vessel's certificate of inspection issued by the United States government, Department of Transportation, United States Coast Guard; and all such vessels shall be properly licensed as required by applicable state and federal laws and regulations and shall comply with all applicable equipment requirements of the United States Coast Guard before an occupational license may be issued by the town.

Such additional parking facilities need not be on the same building site as the commercial dock or marina; provided that the proposed location is located within the same zoning district as the principal use it is designed to serve, if located within the Town corporate limits. Additionally, the owner of the commercial dock or marina shall submit to the Town a written agreement with the owner of the off-site parking area. Such agreement must be approved by the Town Commission

prior to the use of the off-site parking area. All uses supported by off-site parking shall automatically cease should the agreement for off-site parking terminate for any reason, whatsoever, and such uses shall not be re-instituted unless and/or until another off-site parking agreement has been provided to the Town and approved by the Town Commission. All uses supported by off-site parking shall automatically cease should either the town or the offsite parking location jurisdiction cease permitting off-site parking within their jurisdictions. Valet parking is hereby prohibited unless specifically approved by the Town Commission as part of a site plan review or site plan modification.

No parking is permitted in any yard area within the Town corporate limits except in approved parking spaces, and except as allowed by the Town Code at chapter 70 Traffic and Vehicles.

Section 5: Each and every other article, section and subsection of Appendix A. Zoning. of the Code of Ordinances of the Town of Palm Beach Shores, shall remain in full force and effect as previously enacted.

Section 6: All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 7: Should any section or provision of this ordinance or any portion thereof, any paragraph, sentence or word be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this ordinance.

Section 8: Specific authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Palm Beach Shores.

FIRST READING this 12th day of December 2018.

SECOND AND FINAL READING this 28th day of January 2019.

TOWN OF PALM BEACH SHORES

Myra Koutzen, Mayor
Myra Koutzen, Mayor

Approved as to form and legal sufficiency.

Keith Davis, Town Attorney
Keith Davis, Town Attorney

ATTEST:

Evyonne Browning
Evyonne Browning, Town Clerk
(Seal)