

ORDINANCE NO. O-13-18

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, AMENDING CHAPTER 82. WATERWAYS. OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH SHORES AT ARTICLE III. DOCKS. TO AMEND THE ARTICLE TITLE; CREATE AN ENTIRELY NEW SECTION 82-50. DEFINITIONS. TO ADD SEVERAL DEFINITIONS; AMEND SECTION 82-51. CONSTRUCTION REGULATED. TO PROVIDE GENERAL DESIGN, APPLICATION, PERMITTING, MATERIALS, AND MAINTENANCE REQUIREMENTS FOR PIERS, DOCKS AND OTHER STRUCTURES; REMOVE SECTION 82-52. USE RESTRICTED.; ADD ENTIRELY NEW SECTION 82-56. PRIVATE DOCKS. TO PROVIDE STANDARDS AND REGULATIONS FOR PRIVATE DOCKS WITHIN THE TOWN; AND ADD ENTIRELY NEW SECTION 82-57. COMMERCIAL DOCKS. TO PROVIDE STANDARDS AND REGULATIONS FOR COMMERCIAL DOCKS WITHIN THE TOWN; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 82. WATERWAYS. 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, as well as the creation of new sections 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 Chapter 82. Waterways. to revise the existing regulations governing docks to provide additional definitions, provide better distinction between and specific standards and regulations for private and commercial docks, and incorporate manatee protection measures into these regulations; 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: Chapter 82. WATERWAYS. of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended at Article III. Docks. to amend the article title; create an entirely new Section 82-50. Definitions. to add several definitions; amend Section 82-51. Construction regulated. to provide general design, application, permitting, materials, and maintenance requirements for piers, docks and other structures; remove Section 82-52. Use restricted.; add entirely new Section 82-56. Private docks. to provide standards and regulations for private docks within the Town; and add entirely new Section 82-57. Commercial docks. to provide standards and regulations for commercial docks within the Town; providing that Article III shall hereafter read as follows:

ARTICLE III. - DOCKS, MARINAS AND WATER-DEPENDENT FACILITIES

Sec. 82-50. – Definitions.

Charter boat means a watercraft, holding itself out to the public for rent or charter for a specified fee or charter price, with an authorized operator on board at all times, and ready to leave the dock

with the charter party. Such boat shall be available to the public in general upon payment of the specified fee, must so equip itself to be suitable for the purpose for which chartered, and must be primarily used for charter or rent.

Commercial use or purpose means any activity where there is an exchange of goods or services for monetary gain.

Dock means a fixed or floating structure, including access walkways, terminal platforms, finger piers, catwalks, mooring pilings, lifts, davits and other associated water-dependent structures, used for mooring and accessing vessels.

Dock, commercial means a dock intended for the mooring of vessels for commercial purposes and shall include any dock not herein defined as a private dock or marginal dock.

Dock, marginal means a dock placed immediately adjacent and parallel to the shoreline or seawall, bulkhead or revetment.

Dock, private means a dock that is intended for the mooring of boats not for commercial purposes.

Marina means a commercial dock/facility for the servicing, fueling, berthing and storage of boats that may include the sale of gasoline, diesel and oil for boating purposes only; pump-out services, renting or leasing of boat slips; charter boats; retail sales of marine supplies; sale of ice, bait and fishing equipment; and accessory on-shore retail and eating facilities.

Servicing (marine) means minor repair service to watercraft, including the installation of accessories, and minor boat rigging and motor repair. No dredge, barge or other work dockage or service is permitted and no boat construction or reconstruction is permitted.

Transitory slip means docks, slips, and other shoreline structures used for the temporary mooring of vessels (less than one day), facilities used for water-dependent public transportation (e.g., water taxis), and designated day-use slips at restaurants and hotels. Transitory slips cannot be used for the permanent storage of vessels. Slips used for boat rentals or slips rented to patrons are not considered transitory.

Water-dependent facility means a facility that involves or focuses on activities which can only be conducted on, in, over, or adjacent to water areas because the activity requires direct access to the water body or sovereign submerged lands for transportation, recreation, energy production or transmission, or source of water and where the use of the water or sovereign submerged lands is an integral part of the activity. Such facilities include marinas, docks, pilings, piers, boat ramps, boat lifts and other direct water access facilities.

Sec. 82-51. - Construction regulated.

(a) General requirements.

(1) Design. The design of any pier, dock or other structure to be constructed under the provisions of this article shall be performed by a professional engineer licensed in the state. Detailed construction drawings shall be submitted bearing the signature and seal of such engineer. Any dock or other approved structure to be constructed waterward of the bulkhead shall comply with all building code provisions in force at the time of construction, including requirements for permits, inspections, and construction detail. The designer shall incorporate appropriate provisions as published in "Planning and Design Guidelines for Small Craft Harbors: ASCE Manual and Reports on Engineering Practice No. 50," or similar professionally recognized design references and guidelines for design of docks and marinas, as determined by the Town Engineer or his/her designee. The designer shall adhere to and incorporate the Palm Beach County Manatee Protection Plan into the design of any pier, dock or other structure within the Town.

(2) No hazard or intrusion. The Town shall rely solely on the receipt of appropriate state and federal permits or permit exemption verifications and state authorizations for use of sovereign submerged lands. Town receipt of such permits shall signify to the Town that the permitted pier, dock or other structure location or design does not create a hazard to navigation; impede the flow of water; damage or endanger environmentally-sensitive areas; contribute to water quality degradation; or intrude upon the riparian rights of others, including rights vested to the public.

~~No dock shall be erected within the corporate limits of the town which shall extend more than 100 feet in length from the bulkhead line, to the outer end of the dock or pilings of the dock. Location and construction of all docks to be considered must provide that the dock does not interfere with the existing channels, nor violate federal or state laws or regulations, nor shall any dock have a "T" at the end exceeding 25 feet in length, said "T" to be constructed in the center of the dock. No "T" outer pilings or cross walks shall extend beyond the 100-foot limit set forth in this section, nor shall any dock be constructed, erected or permitted within 30 feet of the westerly projection of the north and south lot lines of a single lot fronting on Lake Worth, nor shall any dock be located so as to interfere with the present or future use of a dock on an adjacent lot. No dock shall be permitted in connection with a vacant lot unless there is a unity~~

~~of title conforming with the zoning ordinance of the town. Location of a dock on multiple lots joined by a unity of title covenant or by the construction of a building on more than one lot shall be on the centerline of the multiple lots, so joined.~~

(b) Applications. All applications, ~~drawings~~ plans and specifications for the construction of water-dependent facilities ~~docks, pilings and/or boatlifts~~ shall be approved as follows:

(1) Submittal requirements: An applicant for a water-dependent facility shall submit ten (10) sets, three (3) of which are sealed, of each of the following documents with the application:

a. Proof that the applicant is the owner of the property and the holder of the riparian rights;

b. Construction drawings prepared by and under the seal of a Florida licensed professional engineer;

c. A site plan drawn to scale sufficient to represent all elements of the proposed dock and of the riparian property from which the dock will project, and of the adjacent properties on both sides thereof;

d. A cross section showing all elements of the proposed dock, the bottom of the waterway, as well as the mean high waterline and mean low waterline; and

e. Valid written authorization of the proposed dock from the Florida Department of Environmental Protection (DEP) or the South Florida Water Management District (SFWMD) and the U.S. Army Corps of Engineers (Corps) is required. Such written approval shall contain the date on which the proposed dock was approved.

~~The town planning and zoning board shall first consider the conceptual plans and may reject, approve or approve with modification any such dock, piling and/or boat lift conceptual plans. This review shall occur prior to the applicant obtaining documentation from all applicable federal and state agencies establishing approval, exemption or waiver.~~

(2) Review Process. Subject to the exception specified in subpart (3) below and the specific regulations provided herein, all applications for the construction of any water-dependent facility shall be subject to the site plan review processes set forth in sections 14-62, 14-63, Pf. 17.1 and Pf. 17.2 of the town code ~~The town planning and zoning board shall subsequently consider the final dock, piling and/or boat lift plans which must include documentation from all applicable federal and state agencies establishing approval,~~

~~exemption or waiver.~~ The town planning and zoning board may reject, approve or approve with conditions or modification any such applications ~~dock, piling and/or boat lift final plans.~~

(3) The town building official shall review the documentation from all applicable federal and state agencies establishing approval, exemption or waiver, as well as the final approval of the town planning and zoning board before a town construction permit is issued. However, in case of an emergency where danger exists to public health or life or damage to property either public or private is imminent, an emergency permit may be authorized in writing by the building official without a formal town planning and zoning board approval.

~~(4) In the event an applicant obtains documentation from all applicable federal and state agencies establishing approval, exemption or waiver prior to the town planning and zoning board's conceptual review, the review process set forth in sub parts (1) and (2) above may be combined into one single review at the discretion of the town planning and zoning board.~~

(c) Permit required. It shall be unlawful for any person without a permit to build, construct, erect, repair, alter or maintain any such dock, wharf, ramp, water-dependent facility, or other structure of any kind or character whatsoever upon, across, adjoining or connected with the seawall along the lakefront of Lake Worth.

~~(d) However, in case of an emergency where danger exists to public health or life or damage to property either public or private is imminent, an emergency permit may be authorized in writing by the building official without a formal town planning and zoning board approval.~~

~~(d)~~ (e) Materials. Materials, engineering design and construction shall produce a structure with a minimum life expectancy of at least ten (10) years. The following materials are approved for the supporting structures within the waters of Lake Worth:

(1) Minimum of fourteen ~~ten~~-inch square pre-stressed concrete pilings.

(2) Six-inch diameter standard weight steel pipe or larger.

(3) Structural steel members with a minimum thickness of three-eighths inch.

(4) Treated wood pilings approved by the American Wood Products Association and building official.

(5) Stainless steel hardware.

(6) Other materials or a combination of above materials which fulfill the requirements of a ten-year life expectancy for the supporting structures shall be subject to the approval of the building official.

(e)-(f) No untreated wood is allowed as part of the supporting structures nor may be used for fenders, moorings, pilings or superstructures. No dock constructed in Lake Worth shall have a roof or vertical sides.

(f)-(g) Maintenance. No floats or barges may be moored or maintained within the limits of the town other than where necessary for repair, construction or maintenance of existing facilities or authorized facilities and then only so long as may be necessary in the completion ~~prosecution~~ of such work.

Sec. 82-52. - ~~Use restricted.~~ Reserved.

~~(a) No dock shall be used for any purpose other than the private use of the property owner or his guests and no commercial use shall be made of any docks whatsoever, except those located at a marina which has been permitted as an accessory use to a hotel or motel; and then the services rendered shall be restricted to:~~

~~(1) Sale of gasoline, oil for boating purposes only and compatible accessories.~~

~~(2) Renting or leasing of boat slips.~~

~~(3) Sale of ice or bait.~~

~~(4) Permitting deep sea sportfishing boats to operate for hire from docks provided that any or all boats operated for hire shall first secure a town occupational license for that purpose. Prior to the issuance of the occupational license, the applicant must demonstrate that there is adequate parking for this use in addition to the parking required for other uses located on the property. 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.~~

~~(b) Parking spaces for boats for hire shall be paved and marked, with a minimum size of ten by 20 feet 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, and in addition, one parking space is required for every three~~

~~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.~~

Sec. 82-53. - Ambulance and fire lane.

Each owner or operator of a dock where three or more boats are customarily moored, stored or fueled, shall provide an ambulance and fire lane of not less than 13½ feet in width, to be maintained at all times from the nearest public street of the town, with direct access to any such dock.

Sec. 82-54. - Fire extinguishers.

At any dock where three or more boats are customarily moored, stored or fueled, the owner or operator shall provide a fire extinguisher of a type approved by the National Board of Fire Underwriters, to be provided and maintained at:

- (1) A station near the dispensing nozzle of any fuel line; and
- (2) At a station near the booster pumps connected with fuel lines, if any; and
- (3) At proper intervals on dock or pier as specified in the fire prevention code, adopted in section 30-86, and the National Fire Codes, as published by the National Fire Protection Association adopted in section 30-86.

Sec. 82-55. - Trash receptacles.

Each owner or operator of a dock, where three or more boats are customarily moored, stored or fueled, shall provide an adequate number of trash and garbage receptacles of approved type, covered to accommodate the number of boats that may be berthed at such dock, which receptacles shall be placed for convenient access by the trash and garbage disposal crews of the town.

Sec. 82-56. – Private docks.

- (a) No private dock shall be erected within Zoning District A which shall extend more than 100 feet in length from the bulkhead line to the outer end of the dock or pilings of the dock.
- (b) All private docks, including mooring pilings, must be set back a minimum of 25 feet inside the property owner's riparian rights lines, unless otherwise allowed by an exception provided in (1)-(7) below and a validly issued DEP or Corps permit. Marginal docks must be set back a minimum of 10 feet. Exceptions to the setbacks are:

 - (1) Private residential single-family docks or piers associated with a parcel that has a shoreline frontage of less than 65 feet, where portions of such structures are located between riparian lines less than 65 feet apart, or where such structure is shared by two adjacent single-family parcels.
 - (2) Utility lines.
 - (3) Bulkheads, seawalls riprap or similar shoreline protection structures located along the shoreline.
 - (4) Structures and activities previously authorized.
 - (5) Structures and activities built or occurring prior to any requirement for authorization.
 - (6) When a letter of concurrence is obtained from the affected adjacent upland riparian owner.
 - (7) When the DEP determines that locating any portion of the structure or activity within the setback area is necessary to avoid or minimize adverse impacts to natural resources.
- (c) Private docks shall be constructed and used consistent with the standards, limitations and requirements provided in Appendix A. Zoning. of the town's code of ordinances.

Sec. 82-57. – Commercial docks.

Commercial docks (which includes marinas) shall comply with the following standards:

- (a) No commercial dock shall be constructed where the dock and its vessel mooring areas extend beyond a line offset from the bulkhead and located along the extent of similar neighboring docks and vessel mooring areas which have been historically approved by the town. Terminal tee head platforms shall be no longer than twice the slip length plus the width of the access dock.

(b) All commercial docks, including mooring pilings, must be set back a minimum of 25 feet inside the property owner's riparian rights lines, unless otherwise allowed by an exception provided in (1)-(6) below and a validly issued DEP or Corps permit. Marginal docks must be set back a minimum of 10 feet. Exceptions to the setbacks are:

(1) Utility lines.

(2) Bulkheads, seawalls riprap or similar shoreline protection structures located along the shoreline.

(3) Structures and activities previously authorized.

(4) Structures and activities built or occurring prior to any requirement for authorization.

(5) When a letter of concurrence is obtained from the affected adjacent upland riparian owner.

(6) When the DEP determines that locating any portion of the structure or activity within the setback area is necessary to avoid or minimize adverse impacts to natural resources.

(c) Boat slips are allowed at an intensity of use as provided in the most current and updated Palm Beach County Manatee Protection Plan, as amended from time to time, and included in Appendix C. Slip intensity of use only pertains to newly proposed slips (for new facilities or expanding facilities). Any existing slips as of July 30, 2018 are not counted in calculating this slip density. These slip densities apply to a project at final build out, are a one-time allotment and represent the maximum density allowed at a particular location. Slip allowances are not transferable from one location to another. Transitory slips shall not be included in the calculation of wet slips.

(d) Commercial docks operating as marinas shall be required to apply for, obtain, and maintain a Clean Marina Designation with the Florida Department of Environmental Protection Clean Marina Program.

Secs. 82-~~58~~ 56—82-70. - Reserved.

Section 2: Each and every other article, section and subsection of Chapter 82. WATERWAYS. of the Code of Ordinances of the Town of Palm Beach Shores, shall remain in full force and effect as previously enacted.

Section 3: All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 4: 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 5: Specific authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Palm Beach Shores.

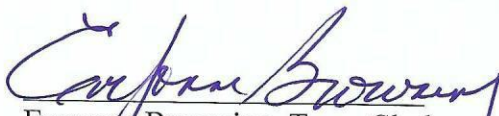
FIRST READING this 17th day of December 2018.

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

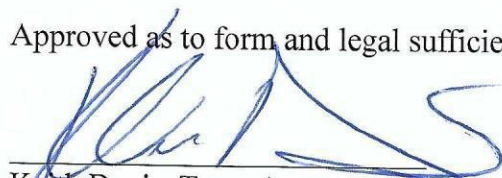
TOWN OF PALM BEACH SHORES


Myra Koutzen, Mayor

ATTEST:


Evyonne Browning, Town Clerk

Approved as to form and legal sufficiency.


Keith Davis, Town Attorney

(Seal)