



TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE -
SUBJECT TO
REVISION

ORDINANCES, RULES AND STANDARDS COMMITTEE MEETING

AGENDA

TOWN HALL
COUNCIL CHAMBERS - SECOND FLOOR
360 SOUTH COUNTY ROAD

Thursday, April 4, 2019
9:00 a.m.

- I. CALL TO ORDER AND ROLL CALL
 - Julie Araskog, Committee Chair
 - Lew Crampton, Committee Member
- II. PLEDGE OF ALLEGIANCE
- III. APPROVAL OF AGENDA
- IV. COMMUNICATIONS FROM CITIZENS
- V. REGULAR AGENDA
 - A. Old Business
 - 1. Review of Article VII, Section 106 of the Town Code, Relative to Special Event Permits on Public Property
Jay Boodheshwar, Deputy Town Manager
 - B. New Business
 - 1. Discussion Regarding an Ordinance Prohibiting Single-Use Plastic Straws
Jay Boodheshwar, Deputy Town Manager
 - 2. Proposed Ordinance to Address Property Maintenance Standards
Wayne Bergman, Assistant Director of Planning, Zoning and Building

VI. ANY OTHER MATTERS

VII. ADJOURNMENT

PLEASE TAKE NOTE:

The progress of this meeting may be monitored by visiting the Town's website (www.townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Technology (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.

Disabled persons who need an accommodation in order to participate in the meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.

TOWN OF PALM BEACH

Information for ORS Meeting on: April 4, 2019

To: Ordinances, Standards and Rules Committee

From: Jay Boodheshwar, Deputy Town Manager

Re: Review of Article VII, Section 106 of the Town Code, Relative to Special Event Permits on Public Property

Date: March 31, 2019

STAFF RECOMMENDATION

Staff recommends the Ordinance, Rules and Standards Committee review and discuss the merits of modifying Article VII, Section 106 of the Town Code, relative to use of public properties for special events, as requested by the Town Council.

GENERAL INFORMATION

During the summer of 2018, Section 106 of the Town Code was modified via Ordinance 12-2018, providing better clarity on certain regulations, expanding the time frame for events and the application process, as well as rules to better protect public spaces and to charge deposits and fees. A companion resolution (Resolution No. 102-2018) was also approved to adopt fees for the use of public spaces. Both documents are attached.

This matter is back before ORS to consider if the Code should be modified again to prohibit or limit the use of Phipps Plaza Park for organized special events, which would require a special events permit. A simple addition of language, as shown below, to Section 106-257 (1) could prohibit the issuance of permits for Phipps Plaza Park but staff urges the Committee to discuss unintended consequences before taking action.

Sec. 106-257. - Regulations relating to special event.

The following regulations shall apply to all special events held within the town:

- (1) There shall be held at the location requested no more than one special event on any given day, without priority for any particular date, to be granted to the first person to submit a completed application designating that day. The town reserves the right to limit use of public spaces at any time to prevent overuse and/or adverse impacts to adjacent neighborhoods. The issuance of special event permits for the use of Phipps Plaza Park is prohibited due to the close residential proximately of this public space.

If ORS believes such regulations are warranted, staff will work with the Town Attorney to prepare an ordinance for first reading by the Town Council at its May 2019, meeting.

Attachments

cc: Mayor and Town Council
Kirk Blouin, Town Manager
Josh Martin, Director of Planning, Zoning and Building
John C. Randolph, Town Attorney

OLD BUSINESS #1

ORDINANCE NO. 12-2018

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 106, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, ARTICLE VII, SPECIAL EVENTS ON PUBLIC PROPERTY, DIVISION 1, GENERALLY, BY AMENDING SECTIONS 106-257(1) AND 106-257(2) RELATING TO REGULATIONS RELATING TO SPECIAL EVENT; AMENDING SECTION 106-281 RELATING TO REQUIRED; AMENDING SECTIONS 106-282(B), 106-282(C)(10), AND 106-282(C)(14) RELATING TO APPLICATION; AMENDING SECTIONS 106-283(6) AND 106-283(10) RELATING TO STANDARDS FOR ISSUANCE; AMENDING SECTION 106-284 RELATING TO NOTICE OF APPROVAL OR DENIAL; AMENDING SECTION 106-285 RELATING TO APPEAL PROCEDURE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; 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. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 106, Streets, Sidewalks and Other Public Places; Article VII, Special Events on Public Property, Division 1, Generally, by amending Section 106-257(1) and Section 106-257(2) to read as follows:

"Sec. 106-257. - Regulations relating to special event.

The following regulations shall apply to all special events held within the town:

- (1) There shall be held at the location requested no more than one special event on any given day, without priority for any particular date, to be granted to the first person to submit a completed application designating that day. The Town reserves the right to limit use of public spaces at any time to prevent overuse and/or adverse impacts to adjacent neighborhoods.
- (2) The maximum total duration of each special event and the assembly thereof shall be three-five (5) hours.

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- (3) Any signs, props or displays used in conjunction with the special event must be removed immediately after the time permitted for the special event has expired.
- (4) The use of banners, flags (other than flags of official governmental bodies), streamers, balloons or any similar devices, in connection with the event, shall be prohibited.
- (5) The use of decorated vehicles and trailers in connection with the event is prohibited.
- (6) The granting of a special event permit under this article shall not require the complete blockading of streets or intersections to vehicular traffic, and the town shall be empowered to apportion such streets and intersections for simultaneous use by special event participants and vehicular and pedestrian traffic.
- (7) The concentration of persons and/or vehicles at the special event will not interfere unduly with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly area or other areas of the town.
- (8) There are sufficient parking places near to the site of the special event to accommodate the approximate number of automobiles reasonably expected to be driven to the special event.
- (9) The event is not otherwise in violation of ordinances or regulations of the town or the state or of federal law."

Section 2. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 106, Streets, Sidewalks and Other Public Places; Article VII, Special Events on Public Property, Division 1, Generally, by amending Section 106-281 to read as follows:

"Sec. 106-281. - Required.

No person shall engage in, participate in, aid, form or start any special event unless a special event permit shall have first been obtained from the town manager or his/her designee. No permit shall be required for special events officially sponsored by the town government and approved by the town council, nor shall the regulations set forth in this division 2 apply to such special events.

Section 3. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 106, Streets, Sidewalks and Other Public Places; Article VII, Special Events

OLD BUSINESS #1

on Public Property, Division 1, Generally, by amending Sections 106-282(B), 106-282(C)(10), and 106-282(C)(14) to read as follows:

"Sec. 106-282. - Application.

- (a) *Required.* A person seeking issuance of a special event permit shall file an application with the town clerk's office on forms provided by the town.
- (b) *Filing.* A completed application for a special event permit, providing all information required herein, shall be filed with the town clerk's office not less than 30-45 days (or a shorter period of time as deemed appropriate at the discretion of the Town Manager) ~~not and not~~ more than 90 days 9 months for residents and 7 months for non-residents before the date on which it is proposed to conduct the special event.
- (c) *Contents.* The application for a special event permit shall set forth the following information:
 - (1) The name, address and telephone number of the person seeking to conduct such a special event.
 - (2) The purpose of the special event.
 - (3) If the special event is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization.
 - (4) The date on which the special event is to be conducted.
 - (5) The exact hours the special event is to be conducted.
 - (6) The name or type of event.
 - (7) The exact location of the event.
 - (8) The approximate number of participants and spectators.
 - (9) A detailed description of the activity or activities, including whether or not the event requires support facilities such as traffic control, parking volume, crowd control.
 - (10) The name of the applicant's insurance company for the event and proof of insurance. The town shall be named as ~~an additional~~ insured on a policy of liability insurance in an amount not less than \$1,000,000.00. The Town of Palm Beach reserves the right to require additional coverages and limits based upon the particular special event proposed by the applicant. If the special event applicant maintains higher limits than the minimums shown below, the Town requires and shall be entitled to coverage for the higher limits maintained by the applicant.

OLD BUSINESS #1

- (11) The signature of the applicant.
- (12) The name, address and telephone number of the person who will be responsible for the conduct of the special event (i.e., special event chair).
- (13) Provisions for cleanup after conclusion of the special event. The applicant shall be responsible for costs of complete and immediate cleanup.

(d) ~~Fees.(14)~~—The following fees in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time:

~~a. An administrative processing fee and, in the event of a late filing a late filing fee, in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time.;~~

~~b. A refundable damage deposit, if applicable;~~

~~c. A usage fee prepaid for the hours requested to hold the proposed special event, if applicable."~~

Section 4. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 106, Streets, Sidewalks and Other Public Places; Article VII, Special Events on Public Property, Division 1, Generally, by amending Sections 106-283, 106-283(6) and 106-283(10) to read as follows:

"Sec. 106-283. - Standards for issuance.

The town manager~~s-office~~ shall issue a special event permit, when from ~~a~~ consideration of the application and from such other information as may otherwise be obtained, he/she finds that:

- (1) No other applicant has obtained a permit for the date requested.
- (2) The special event applicant has agreed in writing to abide by all provisions set forth in this article.
- (3) All required information is set forth in the application and is in accordance with all provisions set forth in this article.
- (4) The concentration of persons and vehicles at assembly points of the special event will not interfere with the proper fire and police protection of or ambulance services to areas contiguous to such assembly areas.

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- (5) The conduct of such special event will not interfere with the movement of police and fire rescue vehicles and equipment en route to a fire or the movement of emergency medical services equipment en route to an emergency.
- (6) The special event is not being held for the purpose of advertising any product, goods or event, and ~~is not designed to shall not~~ be held for private profit or fund raising, unless the applicant is a 501 (c) 3 non-profit, in which a charitable solicitation permit would also be required.
- (7) The conduct of the special event will not substantially interrupt the safe and orderly movement of pedestrian or vehicular traffic contiguous to the place of the special event.
- (8) The conduct of the special event will not result in damage to town-owned property or constitute a hazard to the safety of other persons within the immediate vicinity of the event.
- (9) No event is scheduled elsewhere in the town where the town's resources required for that event are so great that the deployment of resources for the proposed assembly would have an immediate and adverse effect upon the welfare and safety of persons and property.
- (10) An original certificate of insurance ~~must be was~~ supplied to the town naming the town as ~~an additional~~ insured on a policy of liability insurance in an amount not less than \$1,000,000.00 or an amount higher based upon the particular special event proposed.

Section 5. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 106, Streets, Sidewalks and Other Public Places; Article VII, Special Events on Public Property, Division 1, Generally, by amending Section 106-284 to read as follows:

"Sec. 106-284. - Notice of approval or denial.

The town manager shall act upon an application for a special event permit within ~~15~~ 20 days after the filing thereof and must notify the applicant of the approval or denial of the application within that same period. If the town manager denies an application, a written notice stating the reasons for denial shall be sent to the applicant by certified mail and made available by the town for inspection within the ~~15~~20-day period specified above."

Section 6. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 106, Streets, Sidewalks and Other Public Places; Article VII, Special

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Events on Public Property, Division 1, Generally, by amending Section 106-285 to read as follows:

"Sec. 106-285. - Appeal procedure.

Any person aggrieved shall have the right to appeal the denial of a special event permit to the town council. The appeal shall be submitted in writing ~~taken~~ within five days of notice of denial. If an appeal to the town council is made, the town council shall act upon such appeal at the next regular monthly meeting of the town council subsequent to the notice of appeal."

Section 7. 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 8. 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.

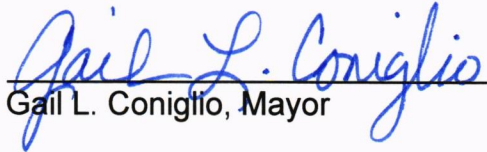
Section 9. Codification.

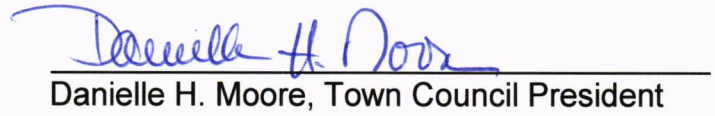
This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

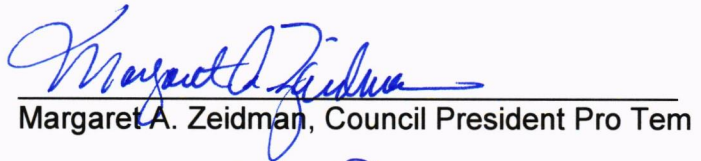
Section 10. Effective Date.

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

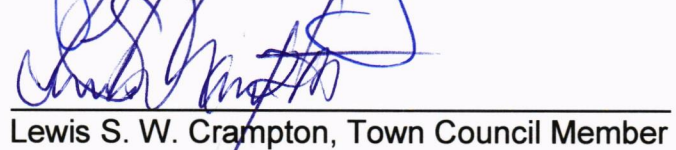
PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 12th day of June, 2018, and for second and final reading on this 10th day of July, 2018.


Gail L. Coniglio, Mayor

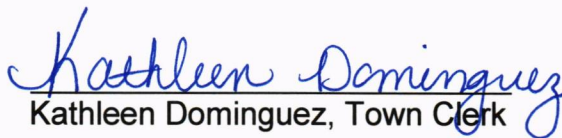

Danielle H. Moore, Town Council President

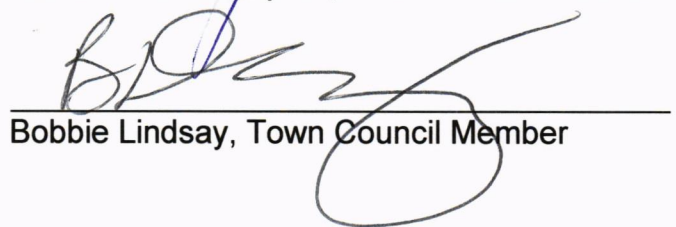

Margaret A. Zeidman, Council President Pro Tem


Julie Araskog, Town Council Member


Lewis S. W. Crampton, Town Council Member

ATTEST:


Kathleen Dominguez, Town Clerk


Bobbie Lindsay, Town Council Member

RESOLUTION NO. 102-2018

**A RESOLUTION OF THE TOWN COUNCIL OF THE
TOWN OF PALM BEACH, PALM BEACH COUNTY,
FLORIDA, ADOPTING VARIOUS SPECIAL EVENT
PERMIT FEES FOR THE USE OF TOWN OF PALM BEACH
PUBLIC PROPERTIES.**

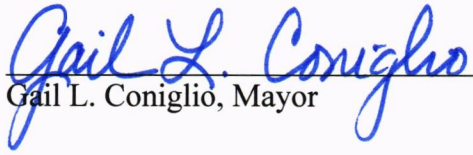
NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1: The special event permit fees listed below for the use of Town of Palm Beach properties are hereby adopted.

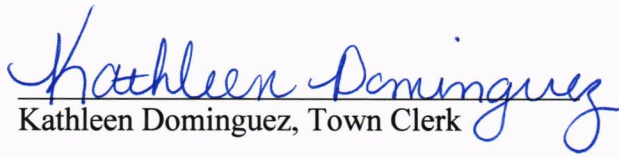
Location	Application Fee	Damage Deposit	Nonresident Usage Fee	Resident Usage Fee
Bradley Park	\$250	50 or Less: \$200 51-100: \$500 Over 100: \$1,000	50 or Less: \$75/hr 51-100: \$150/hr Over 100: \$250/hr	\$0
Memorial Park	\$250	50 or Less: \$200 51-100: \$500 Over 100: \$1,000	50 or Less: \$75/hr 51-100: \$150/hr Over 100: \$250/hr	\$0
Lake Drive Park	\$250	50 or Less: \$100 51-100: \$200 Over 100: \$500	50 or Less: \$50/hr 51-100: \$100/hr Over 100: \$200/hr	\$0
Phipps South Ocean Park	\$250	50 or Less: \$100 51-100: \$200 Over 100: \$500	50 or Less: \$50/hr 51-100: \$100/hr Over 100: \$200/hr	\$0
Phipps South Ocean Park (Chickee Hut Only)	\$250	\$100	\$75/hr	\$0
Public Beaches	\$250	\$100	\$0	\$0
All Other Public Spaces	\$250	\$100	\$0	\$0

Section 2: The Town Clerk is hereby directed to update the master fee schedule for the Town of Palm Beach and implement the special event permit fees upon adoption Resolution No. 102-2018.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 10th day of July, 2018.


Gail L. Coniglio, Mayor

ATTEST:


Kathleen Dominguez, Town Clerk



ARTICLE VII. - SPECIAL EVENTS ON PUBLIC PROPERTY

DIVISION 1. - GENERALLY

Sec. 106-256. - 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:

Special event means any meeting, activity or gathering of a group of persons having a common purpose, design or goal, upon any public street, sidewalk, alley, park, beach or other public place or building, which special event substantially inhibits the usual flow of pedestrian or vehicular travel or which occupies any public area or building, which results in preempted use by the general public or which deviates from the established use. Nothing in this article shall preclude the use of such areas by the town for governmental purposes.

(Code 1982, § 10-432)

Cross reference— Definitions generally, § 1-2.

Sec. 106-257. - Regulations relating to special event.

The following regulations shall apply to all special events held within the town:

- (1) There shall be held at the location requested no more than one special event on any given day, without priority for any particular date, to be granted to the first person to submit a completed application designating that day. The town reserves the right to limit use of public spaces at any time to prevent overuse and/or adverse impacts to adjacent neighborhoods.
- (2) The maximum total duration of each special event and the assembly thereof shall be five hours.
- (3) Any signs, props or displays used in conjunction with the special event must be removed immediately after the time permitted for the special event has expired.
- (4) The use of banners, flags (other than flags of official governmental bodies), streamers, balloons or any similar devices, in connection with the event, shall be prohibited.
- (5) The use of decorated vehicles and trailers in connection with the event is prohibited.
- (6) The granting of a special event permit under this article shall not require the complete blockading of streets or intersections to vehicular traffic, and the town shall be empowered to apportion such streets and intersections for simultaneous use by special event participants and vehicular and pedestrian traffic.
- (7) The concentration of persons and/or vehicles at the special event will not interfere unduly with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly area or other areas of the town.

- (8) There are sufficient parking places near to the site of the special event to accommodate the approximate number of automobiles reasonably expected to be driven to the special event.
- (9) The event is not otherwise in violation of ordinances or regulations of the town or the state or of federal law.

(Code 1982, § 10-435; Ord. No. [12-2018](#), § 1, 7-10-18)

Sec. 106-258. - Penalties.

Any person determined to be in violation of the provisions of this article, not relating to revocation of the permit, shall be subject to section 1-14.

(Code 1982, § 10-442)

Secs. 106-259—106-280. - Reserved.

DIVISION 2. - PERMIT

Sec. 106-281. - Required.

No person shall engage in, participate in, aid, form or start any special event unless a special event permit shall have first been obtained from the town manager or his/her designee. No permit shall be required for special events officially sponsored by the town government and approved by the town council, nor shall the regulations set forth in this division 2 apply to such special events.

(Code 1982, § 10-433; Ord. No. 29-10, § 2, 9-29-10; Ord. No. [12-2018](#), § 2, 7-10-18)

Sec. 106-282. - Application.

- (a) *Required.* A person seeking issuance of a special event permit shall file an application with the town clerk's office on forms provided by the town.
- (b) *Filing.* A completed application for a special event permit, providing all information required herein, shall be filed with the town clerk's office not less than 45 days (or a shorter period of time as deemed appropriate at the discretion of the town manager) and not more than nine months for residents and seven months for non-residents before the date on which it is proposed to conduct the special event.
- (c) *Contents.* The application for a special event permit shall set forth the following information:
 - (1) The name, address and telephone number of the person seeking to conduct such a special event.
 - (2) The purpose of the special event.

- (3) If the special event is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization.
 - (4) The date on which the special event is to be conducted.
 - (5) The exact hours the special event is to be conducted.
 - (6) The name or type of event.
 - (7) The exact location of the event.
 - (8) The approximate number of participants and spectators.
 - (9) A detailed description of the activity or activities, including whether or not the event requires support facilities such as traffic control, parking volume, crowd control.
 - (10) The name of the applicant's insurance company for the event and proof of insurance. The town shall be named as additional insured on a policy of liability insurance in an amount not less than \$1,000,000.00. The Town of Palm Beach reserves the right to require additional coverages and limits based upon the particular special event proposed by the applicant. If the special event applicant maintains higher limits than the minimums shown below, the town requires and shall be entitled to coverage for the higher limits maintained by the applicant.
 - (11) The signature of the applicant.
 - (12) The name, address and telephone number of the person who will be responsible for the conduct of the special event (i.e., special event chair).
 - (13) Provisions for cleanup after conclusion of the special event. The applicant shall be responsible for costs of complete and immediate cleanup.
- (d) *Fees.* The following fees in accordance with the fee schedule adopted by the town council by resolution as may be amended from time to time:
- a. An administrative processing fee;
 - b. A refundable damage deposit, if applicable;
 - c. A usage fee prepaid for the hours requested to hold the proposed special event, if applicable.

(Code 1982, § 10-434; Ord. No. 2-2013, § 1, 6-11-13; Ord. No. [12-2018](#), § 3, 7-10-18)

Sec. 106-283. - Standards for issuance.

The town manager shall issue a special event permit, when from consideration of the application and from such other information as may otherwise be obtained, he/she finds that:

- (1) No other applicant has obtained a permit for the date requested.
- (2) The special event applicant has agreed in writing to abide by all provisions set forth in this article.

- (3) All required information is set forth in the application and is in accordance with all provisions set forth in this article.
- (4) The concentration of persons and vehicles at assembly points of the special event will not interfere with the proper fire and police protection of or ambulance services to areas contiguous to such assembly areas.
- (5) The conduct of such special event will not interfere with the movement of police and fire rescue vehicles and equipment en route to a fire or the movement of emergency medical services equipment en route to an emergency.
- (6) The special event is not being held for the purpose of advertising any product, goods or event, and shall not be held for private profit or fund raising, unless the applicant is a 501 (c) 3 non-profit, in which a charitable solicitation permit would also be required.
- (7) The conduct of the special event will not substantially interrupt the safe and orderly movement of pedestrian or vehicular traffic contiguous to the place of the special event.
- (8) The conduct of the special event will not result in damage to town-owned property or constitute a hazard to the safety of other persons within the immediate vicinity of the event.
- (9) No event is scheduled elsewhere in the town where the town's resources required for that event are so great that the deployment of resources for the proposed assembly would have an immediate and adverse effect upon the welfare and safety of persons and property.
- (10) An original certificate of insurance was supplied to the town naming the town as additional insured on a policy of liability insurance in an amount not less than \$1,000,000.00 or an amount higher based upon the particular special event proposed."

(Code 1982, § 10-436; Ord. No. [12-2018](#), § 4, 7-10-18)

Sec. 106-284. - Notice of approval or denial.

The town manager shall act upon an application for a special event permit within 20 days after the filing thereof and must notify the applicant of the approval or denial of the application within that same period. If the town manager denies an application, a written notice stating the reasons for denial shall be sent to the applicant by certified mail and made available by the town for inspection within the 20-day period specified above.

(Code 1982, § 10-437; Ord. No. [12-2018](#), § 5, 7-10-18)

Sec. 106-285. - Appeal procedure.

Any person aggrieved shall have the right to appeal the denial of a special event permit to the town council. The appeal shall be submitted in writing within five days of notice of denial. If an appeal to the town council is made, the town council shall act upon such appeal at the next regular monthly meeting of the town council subsequent to the notice of appeal.

(Code 1982, § 10-438; Ord. No. [12-2018](#), § 6, 7-10-18)

Sec. 106-286. - Duties of permittee.

The permittee under this division shall comply with all provisions of this article, other laws and ordinances of the town, state and federal government, and all permit directions and conditions of the permit.

(Code 1982, § 10-439)

Sec. 106-287. - Possession.

The special event chair or other person heading or leading such special event shall carry the special event permit upon his person during the conduct of the special event and shall be present at the special event.

(Code 1982, § 10-440)

Sec. 106-288. - Revocation.

The town manager or his designee shall have the authority to revoke a special event permit issued under this division upon violation of the provisions applicable to special event permittees. If a special event is held in violation of the terms of the permit, the permit shall be determined to be null and void and may be immediately terminated. The revocation of a permit may be appealed in the same manner and under the same time limitations as a permit denial.

(Code 1982, § 10-441)

TOWN OF PALM BEACH

Information for ORS Meeting on: April 4, 2019

To: Ordinances, Standards and Rules Committee

From: Jay Boodheshwar, Deputy Town Manager

Re: Discussion Regarding an Ordinance Prohibiting Single-Use Plastic Straws

Date: March 31, 2019

STAFF RECOMMENDATION

Staff recommends the Ordinance, Rules and Standards Committee review and discuss the merits of developing an ordinance prohibiting single-use plastic straws, as requested by the Town Council at its February 14, 2019, meeting.

GENERAL INFORMATION

The City of Delray Beach Commission approved the final reading of Ordinance No. 10-19, on February 5, 2019, prohibiting the distribution of single-use plastic straws at most of its businesses by the year 2020. Delray Beach is now one of five other coastal Florida communities (Deerfield Beach, Hallandale Beach, Marco Island, Ft. Meyer Beach, and Miami Beach) who have adopted ordinances to limit or prohibit the use of plastic straws.

To put things into perspective about the magnitude of this issue, approximately 500 million straws are used daily in the US, most for less than 20 minutes. As you all know, plastics never fully degrade, but break down into micro-plastics instead. Plastic straws are non-recyclable plastics and a threat to marine life and birds. They are among the top items found during beach cleanups. This information has not been lost on those concerned about our marine environment; including many of the Town's businesses who have already taken it upon themselves to replace plastic straws with paper ones voluntarily.

Attached to this memo is Delray Beach's ordinance and related documentation provided to their Commission for review in consideration of their recent adoption. If ORS is in agreement with a recommendation to adopt a similar prohibition in the Town, staff will work with the Town attorney to prepare an ordinance for first reading at the May 2019 Council meeting.

Attachments

cc: Mayor and Town Council
Kirk Blouin, Town Manager
John C. Randolph, Town Attorney

**CITY OF DELRAY BEACH****COMMISSION ACTION MEMORANDUM**

TO: Mayor and Commissioners
FROM: Dr. Ana Puszkin-Chevlin, Sustainability Officer
THROUGH: Mark R. Lauzier, City Manager; India J. Adams, Assistant City Manager
SUBJECT: Proposed Plastic Straw Ordinance
DATE: September 11, 2018

SUMMARY:

The detrimental impact of plastic straws has received national attention and at least nine cities, including four in Florida, have moved forward on ordinances that either limit their distribution or prohibit their use. At the May 18th meeting of the Green Implementation Advancement Board (GIAB), the board unanimously passed a resolution requesting that the City Commission consider an Ordinance that requires all restaurants to distribute plastic straws to their customers *only on request*, and 18 months after passage of the ordinance, prohibits restaurants from offering single use plastic straws, but allows reusable straws made of materials that can be recycled or compostable material. Staff seeks City Commission direction on advancing the proposed ordinance.

STRATEGIC POLICY PRIORITY:

A plastics straw ordinance that would encourage the reduction of plastic straw usage is a step towards achieving strategic policy priority goal 4 of the City's Strategic Plan:

- To advance a culture of excellence by pursuing a comprehensive approach to local sustainability issues.

BACKGROUND:

The 2018 world-wide Earth Day theme was the detrimental impact of plastics on the environment. Following this event, long standing, but relatively discreet anti-straw campaigns by numerous organizations made headlines nationally, prompting major corporations including American Airlines, Starbucks, Disney and McDonalds, to commit to eliminating the use of plastic straws, over the next two years. While motivated in part by public relations issues, they were also addressing plastic straw ban ordinances passed in a growing number of cities, including Malibu, San Obsipo, and Oakland, CA, Monmouth Beach, NJ, Seattle, WA and Fort Meyers Beach, Miami Beach and Marco Island, Florida.

Delray Beach's GIAB noted the negative impact of plastic straws on our beaches, waterways, and sea turtles, as well as the growing national movement to eliminate their use. At their May 2018 board meeting they passed a resolution requesting that City Commission consider an ordinance restricting their use. Working with the Sustainability Officer and based on research on what other cities have enacted, GIAB proposed a two-phased approach. Initially, the ordinance would restrict distribution of plastic straws and stirrers only to customers that specifically request them, an approach taken by Oakland, CA. Then after an 18-month period, the ordinance would ban use of plastic straws by restaurants and bars, an approach taken by Monmouth Beach, NJ Malibu, CA and Seattle, WA. The two-phase approach was perceived as less harsh, more business friendly, and still effective. They also requested that the Office of Sustainability begin an immediate education and outreach program to engage bars and restaurants on a voluntary basis. As part of a successful "Skip the Straw" campaign, 19 local restaurants and bars chose to voluntarily comply with the campaign and provide recyclable straws.

ISSUE:

An ordinance that restricts the distribution or use of plastic straws is an important first step to reduce the use of single use plastics. While it can be argued that plastic straws are just a small part of an overall environmental problem, they are representative of unnecessary plastic consumption and create awareness of the need to reduce the use of other single-use plastics. Additionally, because straws are very small and lightweight, they cannot be recycled, are easily blown out of garbage cans and

the streets and storm water systems, and they pose a risk to sea animals.

Cities have approached plastic straw bans from various angles. Some restrict them along with other plastics, including plastic cutlery, Styrofoam and plastic bags. This is not currently possible in Florida, as the state has preempted localities from enacting laws on plastic bags and Styrofoam. Other cities have banned them in geographic areas close to water bodies. This approach is a potential alternative but is not recommended. Plastic straw litter is a city-wide issue, as our storm drains extend to areas away from the waterfront. Creating an artificial boundary for business that can use plastic straws and those that cannot would be cumbersome and run contrary to educating the public to simply not use unnecessary plastics. The City of Jupiter chose to adopt a resolution promoting public education about the detrimental impacts of plastic straws. Staff feels that a resolution is not effective in changing behavior and it does not reflect our objectives to present Delray Beach as strong on environmental sustainability.

CITY ATTORNEY REVIEW:

The City Attorney will take direction on drafting an ordinance based on City Commission's direction.

FISCAL IMPACT & FUNDING SOURCE:

Stakeholders and businessowners may raise issues about the cost of changing to more sustainable alternatives. While compostable plastic, paper straws, seaweed, hay and compostable plastics can be double the price, it represents one to five cents. It is hoped that Skip the Straw would lead establishments to distributing fewer straws, thus allowing them to absorb the higher price point.

Product type	Brand	Cost per straw
Plastic (traditional)	Amazon	\$0.01
Compostable Plastic	Cello	\$0.015
Paper	Aardvark	\$0.02 - \$0.06
Seaweed	Loli Straw	\$0.02
Hay	Hay! Straw	\$0.03 - \$0.08
Steel	Steely Drinkware	\$0.76

RECOMMENDATION:

Staff recommends moving forward with the two phased approach, which allows for a period of adjustment for both local businesses and consumer. Staff recommends prompt action on the ordinance as there is concern that the State may pass legislation pre-empting municipalities from enacting laws on plastic straws, as has been the case with plastic bags and polystyrene containers previously. In these cases, municipalities with laws already in effect, such as Miami Beach, were, "grandfathered". Staff and GIAB would like to ensure that should the State move to limit local jurisdictions capacity to legislate, we can be considered "grandfathered."

ORDINANCE NO. 10-19

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING TITLE 11, "BUSINESS REGULATIONS", OF THE CODE OF ORDINANCES BY ADDING A NEW CHAPTER 121, "PROHIBITION OF SINGLE-USE PLASTIC STRAWS," PROHIBITING THE DISTRIBUTION OF PLASTIC STRAWS, PROVIDING PENALTIES FOR ANY SUCH DISTRIBUTION, PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the City Commission of the City of Delray Beach (hereinafter referred to as the "City") finds that single-use plastic straws pose an environmental hazard to the health, safety, and welfare of the residents and visitors of Delray Beach, Florida, as well as negatively impact water quality and surrounding wildlife; and

WHEREAS, while certain plastics can be recycled, the vast majority of single-use plastic straws cannot be recycled due to their lack of resin code and small size, making them a nuisance on the environment; and

WHEREAS, Delray Beach has a vibrant and growing hospitality business community, much of which is located within a mile of the City's beaches and marine waterways, which use or distribute single-use plastic straws that are lightweight and easily blow out of trash bins and recycle containers leaving them to accumulate in storm runoff and waterways, making them a common type of pollutant found on the City's beaches and marine waterways; and

WHEREAS, single-use plastic straws are non-biodegradable and take hundreds of years to decompose. Even then, the plastic merely breaks down into micro-plastic pieces which marine life ingest, decreasing their life span; and

WHEREAS, the public at large is becoming increasingly aware of the negative environmental consequences from using single-use food service items which are non-biodegradable; and

WHEREAS, non-plastic straws such as those made of paper, plant, vegetable, and other natural products, are readily available and are a more environmentally responsible alternative to plastic straws; and

WHEREAS, the City Commission of Delray Beach find adoption of this Ordinance is in the best interest and promotes the health, safety, and welfare of the citizens, residents, and businesses of the City of Delray Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF

DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance as if fully restated herein.

Section 2. Title 11, “Business Regulations”, of the Code of Ordinances City of Delray Beach, Florida shall be amended to add Chapter 121, “Prohibition of Single-Use Plastic Straws”, as follows:

Sec. 121. – PROHIBITION OF SINGLE-USE PLASTIC STRAWS.

(A) Definitions. For the purpose of this Chapter:

- (1) “Person” means any person, business, corporation, public nonprofit entity, agency or institution, partnership, or other organization or group, however organized.
- (2) “Natural products” means an item containing nothing artificial or synthetic in its compounds while it remains a whole item and throughout its decomposition process.
- (3) “Single-use” is defined as an item that is intended to be used one time in its same form by the customer, food vendor, or entity.
- (4) “Plastic Straw” means a tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, for transferring a beverage from its container to the mouth of the drinker. Single-use plastic straw includes compostable and biodegradable petroleum or biologically based polymer straws, but does not include straws that are made from non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials.
- (5) “Marine degradable” means products that will biodegrade under the marine environmental conditions of aerobic marine waters or anaerobic marine sediments in less than 120 days. Products predominately made with plastics, either petroleum or biologically based, shall not be considered marine degradable.
- (6) “Distribution” or to “distribute” means the vending, sale, giving, deployment or delivering of a straw for any purpose, other than as defined herein, whether or not incident to the sale, vending, provision of any kind of beverage in a container.
- (7) “Restaurant and beverage establishments” means any establishment within the City of Delray Beach, Florida that sells prepared food or beverages for consumption on, near, or off its premises by customers including dine-in and take-out public eating places (whether food is served in connection with or separate from other business), bars and night clubs, bakeries, coffee shops, delis, catering halls, hotel-based restaurants, cafes and bars, ice cream shops, and convenience stores with fountain beverage dispensers.

(B) Distribution of Plastic Straws Prohibited

- (1) Upon adoption of this Ordinance, all restaurant and beverage establishments may distribute plastic straws only upon request of a patron.

- (2) Eighteen (18) months after the date of adoption of this Ordinance, restaurants and beverage establishments may not distribute plastic straws within the City.
- (B) Exemptions.
- (1) Single-use plastic straws can be distributed to a customer when based upon a medical or physical condition for which non-plastic straws would be unsuitable.
 - (2) Single-use plastic straws can be distributed for use on private property used as a residence, by the School Board of Palm Beach County, by a hospital or residential medical facility, such as a nursing home or assisted living, by beverages prepared and packaged outside the City, provided such beverage is not altered, packaged, or repackaged within the City, by supermarkets, convenience retailers, and restaurant suppliers.
- (C) Penalties for Distribution. After the expiration of the eighteen (18) month period referenced in Sec. 121(B)(2) above, for any violation of this Chapter:
- (1) First offense within any twelve (12) month period is punishable by a One Hundred Dollar (\$100.00) fine.
 - (2) Second offense within any twelve (12) month period is punishable by a Two Hundred Dollar (\$200.00) fine.
 - (3) Third offense within any twelve (12) month period is punishable by a Five Hundred Dollar (\$500.00) fine.
- (D) Enforcement.
- (1) It shall be the duty of the Code Enforcement Division of the Neighborhood and Community Services Department or its designee to enforce all the provisions of this Chapter in conjunction with Chapter 37 of the Code of Ordinances of the City of Delray Beach.

Section 3. 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 hereof as a whole or part thereof other than the part declared to be invalid.

Section 4. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 5. Specific authority is hereby given to codify this Ordinance.

Section 6. This Ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the _____ day of _____, 2019.

ATTEST

M A Y O R

City Clerk

First Reading_____

Second Reading_____

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

TOWN OF PALM BEACH

Information for ORS Meeting on: April 4, 2019

To: Ordinances, Rules and Standards Committee

Via: Jay Boodheshwar, Deputy Town Manager

Via: Josh Martin, Director of Planning, Zoning & Building

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

Re: Ordinance 15-2019– Property Maintenance Code

Date: March 28, 2019

STAFF RECOMMENDATION

Staff recommends that the Ordinances, Rules and Standards Committee review and provide input (if necessary) on Ordinance 15-2019, prior to Town Council's first reading of said ordinance, which would modify Chapter 88 of the Town Code.

GENERAL INFORMATION

The Town has applicable codes for new construction projects, for fire protection of old and new buildings, for the preservation of older, historic buildings, for the prohibition of 22 types of public nuisances, and for the regulation of certain property activities (such as the haphazard use of sprinkler systems, the handling of manure, and fruit or vegetable displays). However, the Town does not have a general property maintenance code to deal with existing buildings and properties that fall into disrepair. Our recent involvement with, and discussion of, specific properties raised this issue and made it clear that while there is a certain expectation that Town property owners must maintain their properties to high standards, the Town cannot enforce certain matters of blight or inappropriate conditions on private property, unless the certain matters or conditions fall within the 22 examples of public nuisances.

A solution is to adopt a general property maintenance code, applicable to all properties within the Town. A property maintenance code would regulate and govern the conditions and maintenance of all property, buildings and structures within the Town. It would provide the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use. It would further allow for the condemnation of buildings and structures unfit for human occupancy and use.

The International Code Council (ICC) has published a property maintenance code for decades. Staff reviewed the current version of the ICC property maintenance code and has modified the code for Town use. The numbering system was changed to match the Town code numbering designation and the code was modified to follow existing Town codes and Florida Statute 162. The ICC codes were changed to match the Florida Building Code and the Florida Fire Protection Code.

Attachment: Ordinance No. 12-2019 (Chapter 88)

WRB

ORDINANCE NO. 15-2019

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES BY ADOPTING A NEW CHAPTER 88, PROPERTY MAINTENANCE CODE, AS SET FORTH BELOW, REGULATING AND GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES, BY PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE, AND THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE; 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 88, Property Maintenance Code, is hereby adopted in the manner and form set forth herein:

“CHAPTER 88 – PROPERTY MAINTENANCE CODE

ARTICLE I - SCOPE AND ADMINISTRATION

PART 1 — SCOPE AND APPLICATION

SECTION 88-1, GENERAL

A. Title. These regulations shall be known as the Property Maintenance Code of the Town of Palm Beach, hereinafter referred to as “this code.”

B. Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; the responsibility of owners, an owner’s authorized agent, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

C. Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and

maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

SECTION 88-2, APPLICABILITY

A. General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code, the referenced standards, and other Town codes, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

B. Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, owner's authorized agent, operator or occupant shall cause any service, facility, equipment or utility that is required under this section to be removed from, shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's authorized agent shall be responsible for the maintenance of buildings, structures and premises.

C. Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Florida Building Code, Florida Existing Building Code, Florida Energy Conservation Code, Florida Fire Prevention Code, Florida Fuel Gas Code, Florida Mechanical Code, Florida Residential Code, Florida Plumbing Code and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Chapter 134, Zoning.

D. Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure that is dangerous, unsafe and insanitary.

E. Workmanship. Repairs, maintenance work, alterations or installations that are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's instructions.

F. Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings where such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.

G. Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Article 8 and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 88-2.G.1 and 88-2.G.2.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

1. Conflicts. Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

2. Provisions in referenced codes and standards.

Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

H. Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official.

I. Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

PART 2 — ADMINISTRATION AND ENFORCEMENT

SECTION 88-3, PROPERTY MAINTENANCE ADMINISTRATION, INSPECTION, AND ENFORCEMENT

A. General. Property maintenance administration, inspections, and enforcement shall be in accordance with Chapter 2, Administration, Article V, Code Enforcement, Sections 2-366 through 2-439 and Florida Statute 162.

B. Appointment. The Property Maintenance code official, [hereinafter the code official](#) shall be appointed by the Town Manager.

C. Liability. The code official, member of the Code Enforcement Board or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

1. Legal defense. Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

SECTION 88-4, DUTIES AND POWERS OF THE CODE OFFICIAL

A. General. The code official is hereby authorized and directed to enforce the provisions of this code. The code official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

B. Inspections. The code official shall make all of the ~~required~~ inspections under this code, or shall accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

C. Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that such entry is authorized by the property owner~~if such structure or premises is occupied the code official shall present credentials to the occupant and request entry~~. If such structure or premises is unoccupied, the code official shall first make a reasonable effort to locate and contact the owner, owner's authorized agent or other person having charge or control of the structure or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.

D. Identification. The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

E. Notices and orders. The code official shall issue all necessary notices or orders to ensure compliance with this code.

F. Department records. The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

SECTION 88-5, APPROVAL

A. Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases upon application of the owner or owner's authorized agent, provided the code official shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

B. Used material and equipment. The use of used materials that meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition and approved by the code official.

SECTION 88-6, VIOLATIONS

A. Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

B. Notice of violation. The code official shall serve a notice of violation or order in accordance with [Section 88-7 the Town Code of Ordinances, Chapter 2, Division V](#).

C. Prosecution of violation. ~~Any person failing to comply with a notice of violation or order served in accordance with Section 88-7 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.~~ [The prosecution of a violation shall be in accordance with the Town Code of Ordinances, Chapter 2, Division V.](#)

D. Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

E. Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

SECTION 88-7, NOTICES AND ORDERS

A. Notice to person responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given [shall be in accordance with the Town Code of Ordinances, Chapter 2, Division V in the manner prescribed in Sections 88-7.B and 88-7.C to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 88-8.E.](#)

~~B. Form. Such notice prescribed in Section 88-7.A shall be in accordance with all of the following:~~

- ~~_____ 1. Be in writing.~~
- ~~_____ 2. Include a description of the real estate sufficient for identification.~~
- ~~_____ 3. Include a statement of the violation or violations and why the notice is being issued.~~
- ~~_____ 4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.~~
- ~~_____ 5. Inform the property owner or owner's authorized agent of the right to appeal.~~
- ~~_____ 6. Include a statement of the right to file a lien in accordance with Section 88-6.C.~~

~~C. Method of service. Such notice shall be deemed to be properly served if a copy thereof is:~~

- ~~_____ 1. Delivered personally;~~
- ~~_____ 2. Sent by certified or first-class mail addressed to the last known address; or~~
- ~~_____ 3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.~~

D. Unauthorized tampering. Signs, tags or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with, or removed without authorization from the code official.

E. Penalties. Penalties for noncompliance with orders and notices shall be in accordance with the Town Code of Ordinances, Chapter 2, Division V ~~shall be as set forth in Section 88-6.D.~~

F. Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

SECTION 88-8, UNSAFE STRUCTURES AND EQUIPMENT

A. General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

1. Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

2. Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

3. Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

B. Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

C. Dangerous structure or premises. For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.

2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.

3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.

4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.

5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.

6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.

7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.

11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

D. Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner or owner's authorized agent to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

1. Authority to disconnect service utilities.

The code official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 88-2.G in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without approval. The code official shall notify the serving utility and, whenever possible, the owner or owner's authorized agent and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner, owner's authorized agent or occupant of the building structure or service system shall be notified in writing as soon as practical thereafter.

E. Notice. Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner, owner's authorized agent or the person or persons responsible for the structure or equipment in accordance with Section 88-7.C. If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in Section 88-7.B.

F. Placarding. Upon failure of the owner, owner's authorized agent or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

1. Placard removal. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

G. Prohibited occupancy. Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner, owner's authorized agent or person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

H. Abatement methods. The owner, owner's authorized agent, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

I. Record. The code official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

SECTION 88-9, EMERGENCY MEASURES

A. Imminent danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure that endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

B. Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

C. Closing streets. When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

D. Emergency repairs. For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

E. Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises or owner's authorized agent where the unsafe structure is or was located for the recovery of such costs.

F. Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Code Enforcement Board, be afforded a hearing as described in Chapter 2, Administration, Article V, Code Enforcement.

SECTION 88-10, DEMOLITION

A. General. The code official shall order the owner or owner's authorized agent of any premises upon which is located any structure, which in the code official's or owner's authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to

board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the code official shall order the owner or owner's authorized agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the building official.

B. Notices and orders. Notices and orders shall comply with Section 88-7.

C. Failure to comply. If the owner of a premises or owner's authorized agent fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

SECTION 88-11, MEANS OF APPEAL

A. ~~Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Code Enforcement Board, in accordance with Chapter 2, Administration, Article V, Code Enforcement. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.~~ Appeals and hearings shall be in accordance with the Town Code of Ordinances, Chapter 2, Division V.

SECTION 88-12, STOP WORK ORDER

A. Authority. Whenever the code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the code official is authorized to issue a stop work order.

B. Issuance. A stop work order shall be in writing and shall be given to the owner of the property, to the owner's authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

C. Emergencies. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

ARTICLE 2 - DEFINITIONS

SECTION 88-13, GENERAL

A. Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

B. Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

C. Terms defined in other codes. Where terms are not defined in this code and are defined in the Florida Building Codes, the Florida Fire Prevention Code, or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.

D. Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

E. Parts. Whenever the words “dwelling unit,” “dwelling,” “premises,” “building,” “rooming house,” “rooming unit,” “housekeeping unit” or “story” are stated in this code, they shall be construed as though they were followed by the words “or any part thereof.”

SECTION 88-14, GENERAL DEFINITIONS

ANCHORED. Secured in a manner that provides positive connection.

APPROVED. Acceptable to the code official.

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for occupancy.

COST OF SUCH DEMOLITION OR EMERGENCY REPAIRS. The costs shall include the actual costs of the demolition or repair of the structure less revenues obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a code official, the governing body or board of appeals.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

HISTORIC BUILDING. Any building or structure that is one or more of the following:

1. Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places.
2. Designated as historic under an applicable state or local law.
3. Certified as a contributing resource within a National Register or state or locally designated historic district.

HOUSEKEEPING UNIT. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY or LET. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

NEGLECT. The lack of proper maintenance for a building or structure.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER. Any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

PREMISES. A lot, plot or parcel of land, easement or public way, including any structures thereon.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

ULTIMATE DEFORMATION. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a structure

ARTICLE 3 - GENERAL REQUIREMENTS

SECTION 88-15, GENERAL

A. Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

B. Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter.

Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

C. Vacant structures and land. Vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 88-16, EXTERIOR PROPERTY AREAS

A. Sanitation. Exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition.

B. Grading and drainage. Premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: Approved retention areas and reservoirs.

C. Sidewalks and driveways. Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

D. Weeds. Premises and exterior property shall be maintained free from weeds or plant growth in excess of 8 inches. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 88-6.C and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

E. Rodent harborage. Structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved

processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

F. Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

G. Accessory structures. Accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

H. Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

I. Defacement of property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

SECTION 88-17, SWIMMING POOLS, SPAS AND HOT TUBS

A. Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

B. Enclosures. Private swimming pools, hot tubs and spas, containing water more than 24 inches in depth shall be completely surrounded by a fence or barrier not less than 48 inches in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is not less than 54 inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

SECTION 88-18, EXTERIOR STRUCTURE

A. General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

B. Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the Florida Building Code or the Florida Existing Building Code as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
5. Structural members that have evidence of deterioration or that are not capable of safely supporting all nominal loads and load effects;
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
7. Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of deterioration or fatigue, are not properly anchored or are incapable of supporting all nominal loads and resisting all load effects;
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;

12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects; or

13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

C. Protective treatment. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

D. Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches in height with a minimum stroke width of 0.5 inch maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

E. Foundation walls. Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

F. Exterior walls. Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

G. Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

H. Decorative features. Cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

I. Overhang extensions. Overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

J. Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

K. Chimneys and towers. Chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. Exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weathercoating materials, such as paint or similar surface treatment.

L. Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

M. Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

1. Glazing. Glazing materials shall be maintained free from cracks and holes.

2. Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

N. Insect screens. Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

O. Doors. Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 88-43.C.

P. Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

Q. Guards for basement windows. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

R. Building security. Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

1. Doors. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch. Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

2. Windows. Operable windows located in whole or in part within 6 feet above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking device.

3. Basement hatchways. Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

S. Gates. Exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

SECTION 88-19, INTERIOR STRUCTURE

A. General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure that they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

B. Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the Florida Building Code or the Florida Existing Building Code as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;

2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Structural members are incapable of supporting nominal loads and load effects;
5. Stairs, landings, balconies and all similar walking surfaces, including guards and handrails, are not structurally sound, not properly anchored or are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted when approved by the code official.

C. Structural members. Structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

D. Interior surfaces. Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

E. Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

F. Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

G. Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

SECTION 88-20, COMPONENT SERVICEABILITY

A. General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

B. Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be

repaired or replaced to comply with the Florida Building Code or the Florida Existing Building Code as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
 - 1.1. Collapse of footing or foundation system;
 - 1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion;
 - 1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
 - 1.4. Inadequate soil as determined by a geotechnical investigation;
 - 1.5. Where the allowable bearing capacity of the soil is in doubt; or
 - 1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
 - 2.1. Deterioration;
 - 2.2. Ultimate deformation;
 - 2.3. Fractures;
 - 2.4. Fissures;
 - 2.5. Spalling;
 - 2.6. Exposed reinforcement; or
 - 2.7. Detached, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
 - 3.1. Deterioration;
 - 3.2. Corrosion;
 - 3.3. Elastic deformation;
 - 3.4. Ultimate deformation;
 - 3.5. Stress or strain cracks;
 - 3.6. Joint fatigue; or
 - 3.7. Detached, dislodged or failing connections.
4. Masonry that has been subjected to any of the following conditions:
 - 4.1. Deterioration;
 - 4.2. Ultimate deformation;
 - 4.3. Fractures in masonry or mortar joints;
 - 4.4. Fissures in masonry or mortar joints;
 - 4.5. Spalling;
 - 4.6. Exposed reinforcement; or
 - 4.7. Detached, dislodged or failing connections.
5. Steel that has been subjected to any of the following conditions:
 - 5.1. Deterioration;
 - 5.2. Elastic deformation;
 - 5.3. Ultimate deformation;
 - 5.4. Metal fatigue; or

5.5. Detached, dislodged or failing connections.

6. Wood that has been subjected to any of the following conditions:

- 6.1. Ultimate deformation;
- 6.2. Deterioration;
- 6.3. Damage from insects, rodents and other vermin;
- 6.4. Fire damage beyond charring;
- 6.5. Significant splits and checks;
- 6.6. Horizontal shear cracks;
- 6.7. Vertical shear cracks;
- 6.8. Inadequate support;
- 6.9. Detached, dislodged or failing connections; or
- 6.10. Excessive cutting and notching.

Exceptions:

- 1. Where substantiated otherwise by an approved method.
- 2. Demolition of unsafe conditions shall be permitted where approved by the code official.

SECTION 88-21, HANDRAILS AND GUARDRAILS

A. General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface that is more than 30 inches above the floor or grade below shall have guards. Handrails shall be not less than 30 inches in height or more than 42 inches in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall be not less than 30 inches in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: Guards shall not be required where exempted by the adopted building code.

SECTION 88-22, RUBBISH AND GARBAGE

A. Accumulation of rubbish or garbage. Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

B. Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

- 1. Rubbish storage facilities. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

2. Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.

C. Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

1. Garbage facilities. The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants in each dwelling unit; or an approved leakproof, covered, outside garbage container.

2. Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

SECTION 88-23, PEST ELIMINATION

A. Infestation. Structures shall be kept free from insect and rodent infestation. Structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

B. Owner. The owner of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

C. Single occupant. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for pest elimination on the premises.

D. Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for pest elimination.

E. Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for pest elimination.

ARTICLE 4 - LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

SECTION 88-24, GENERAL

A. Scope. The provisions of this chapter shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.

B. Responsibility. The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.

C. Alternative devices. In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the Florida Building Code shall be permitted.

SECTION 88-25, LIGHT

A. Habitable spaces. Every habitable space shall have not less than one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be not less than 8 percent of the floor area of the interior room or space, but a minimum of 25 square feet. The exterior glazing area shall be based on the total floor area being served.

B. Common halls and stairways. Every common hall and stairway in residential occupancies, other than in one and two-family dwellings, shall be lighted at all times with not less than a 60-watt standard incandescent light bulb for each 200 square feet of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet. In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with not less than 1 footcandle (11 lux) at floors, landings and treads.

C. Other spaces. All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

SECTION 88-26, VENTILATION

A. Habitable spaces. Every habitable space shall have not less than one operable window. The total operable area of the window in every room shall be equal to not less than 45 percent of the minimum glazed area required in Section 88-25.A.

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be not less than 8 percent of the floor area of the interior room or space, but not less than 25 square feet. The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

B. Bathrooms and toilet rooms. Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 88-26.A, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

C. Cooking facilities. Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the rooming unit or dormitory unit.

Exceptions:

1. Where specifically approved in writing by the code official.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

D. Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

E. Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions. Exception: Listed and labeled condensing (ductless) clothes dryers.

SECTION 88-27, OCCUPANCY LIMITATIONS

A. Privacy. Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

B. Minimum room widths. A habitable room, other than a kitchen, shall be not less than 7 feet in any plan dimension. Kitchens shall have a minimum clear passageway of 3 feet between counterfronts and appliances or counterfronts and walls.

C. Minimum ceiling heights. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a minimum clear ceiling height of 7 feet.

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet on center and projecting a maximum of 6 inches below the required ceiling height.

2. Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a minimum ceiling height of 6 feet 8 inches with a minimum clear height of 6 feet 4 inches under beams, girders, ducts and similar obstructions.

3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of 7 feet over not less than one third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of 5 feet shall be included.

D. Bedroom and living room requirements. Every bedroom and living room shall comply with the requirements of Sections 88-27.A through 88-27.G.

1. Room area. Every living room shall contain not less than 120 square feet and every bedroom shall contain not less than 70 square feet and every bedroom occupied by more than one person shall contain not less than 50 square feet of floor area for each occupant thereof.

2. Access from bedrooms. Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

Exception: Units that contain fewer than two bedrooms.

E. Water closet accessibility. Every bedroom shall have access to not less than one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to not less than one water closet and lavatory located in the same story as the bedroom or an adjacent story.

F. Prohibited occupancy. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

G. Other requirements. Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Article 5; the heating facilities and electrical receptacle requirements of Article 6; and the smoke detector and emergency escape requirements of Article 7.

H. Overcrowding. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 88-27.

TABLE 88-27
MINIMUM AREA REQUIREMENTS

MINIMUM AREA IN SQUARE FEET			
SPACE	1-2 OCCUPANTS	3-5 OCCUPANTS	6 OR MORE OCCUPANTS
Living Room (a, b)	120	120	150
Dining Room (a, b)	No Requirement	80	100
Bedrooms	Shall comply with Section 88-27.D.1		

a. See Section 88-27.H.2 for combined living room/dining room spaces.

b. See Section 88-27.H.1 for limitations on determining the minimum occupancy area for sleeping purposes.

1. Sleeping area. The minimum occupancy area required by Table 88-27 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. Sleeping areas shall comply with Section 88-27.D.

2. Combined spaces. Combined living room and dining room spaces shall comply with the requirements of Table 88-27 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

I. Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet. A unit occupied by not more than two occupants shall have a minimum clear floor area of 220 square feet. A unit occupied by three occupants shall have a minimum clear floor area of 320 square feet. These required areas shall be exclusive of the areas required by Items 2 and 3.

2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of 30 inches in front. Light and ventilation conforming to this code shall be provided.

3. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

4. The maximum number of occupants shall be three.

J. Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

ARTICLE 5 - PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

SECTION 88-28, GENERAL

A. Scope. The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

B. Responsibility. The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises that does not comply with the requirements of this chapter.

SECTION 88-29, REQUIRED FACILITIES

A. Dwelling units. Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink that shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

B. Rooming houses. Not less than one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

C. Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each 10 occupants.

D. Employees' facilities. Not less than one water closet, one lavatory and one drinking facility shall be available to employees.

1. Drinking facilities. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

E. Public toilet facilities. Public toilet facilities shall be maintained in a safe, sanitary and working condition in accordance with the Florida Plumbing Code. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during occupancy of the premises.

SECTION 88-30, TOILET ROOMS

A. Privacy. Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

B. Location. Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

C. Location of employee toilet facilities. Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet. Employee facilities shall either be separate facilities or combined employee and public facilities.

Exception: Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet from the employees' regular working area to the facilities.

D. Floor surface. In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

SECTION 88-31, PLUMBING SYSTEMS AND FIXTURES

A. General. Plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. Plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

B. Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.

C. Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

SECTION 88-32, WATER SYSTEM

A. General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the Florida Plumbing Code.

B. Contamination. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

C. Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

D. Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a minimum temperature of 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

SECTION 88-33, SANITARY DRAINAGE SYSTEM

A. General. Plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

B. Maintenance. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

C. Grease interceptors. Grease interceptors and automatic grease removal devices shall be maintained in accordance with this code and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. Records of maintenance, cleaning and repairs shall be available for inspection by the code official.

SECTION 88-34, STORM DRAINAGE

A. General. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

ARTICLE 6 - MECHANICAL AND ELECTRICAL REQUIREMENTS

SECTION 88-35, GENERAL

A. Scope. The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

B. Responsibility. The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that does not comply with the requirements of this chapter.

SECTION 88-36, HEATING FACILITIES - RESERVED

SECTION 88-37, MECHANICAL EQUIPMENT

A. Mechanical appliances. Mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

B. Removal of combustion products. Fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

Exception: Fuel-burning equipment and appliances that are labeled for unvented operation.

C. Clearances. Required clearances to combustible materials shall be maintained.

D. Safety controls. Safety controls for fuel-burning equipment shall be maintained in effective operation.

E. Combustion air. A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

F. Energy conservation devices. Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved.

SECTION 88-38, ELECTRICAL FACILITIES

A. Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 88-39.

B. Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of 60 amperes.

C. Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

D. Abatement of electrical hazards associated with water exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water.

E. Electrical equipment. Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the Florida Building Code.

Exception: The following equipment shall be allowed to be repaired where an inspection report from the equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

1. Enclosed switches, rated a maximum of 600 volts or less;
2. Busway, rated a maximum of 600 volts;
3. Panelboards, rated a maximum of 600 volts;
4. Switchboards, rated a maximum of 600 volts;
5. Fire pump controllers, rated a maximum of 600 volts;
6. Manual and magnetic motor controllers;
7. Motor control centers;
8. Alternating current high-voltage circuit breakers;
9. Low-voltage power circuit breakers;
10. Protective relays, meters and current transformers;
11. Low- and medium-voltage switchgear;
12. Liquid-filled transformers;
13. Cast-resin transformers;
14. Wire or cable that is suitable for wet locations and whose ends have not been exposed to water;
15. Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water;
16. Luminaires that are listed as submersible;
17. Motors;

18. Electronic control, signaling and communication equipment.

F. Abatement of electrical hazards associated with fire exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.

1. Electrical equipment. Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire, shall be replaced in accordance with the provisions of the Florida Building Code. Exception: Electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

SECTION 88-39, ELECTRICAL EQUIPMENT

A. Installation. Electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

B. Receptacles. Every habitable space in a dwelling shall contain not less than two separate and remote receptacle outlets. Every laundry area shall contain not less than one grounding-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain not less than one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

C. Luminaires. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain not less than one electric luminaire. Pool and spa luminaires over 15 volt shall have ground fault circuit interrupter protection.

D. Wiring. Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

SECTION 88-40, ELEVATORS, ESCALATORS AND DUMBWAITERS

A. General. Elevators, dumbwaiters and escalators shall be maintained in compliance with the Florida Elevator Safety Act (399, F.S.), F.A.C. 61C-5, the Florida Building Code, the Florida Fire Prevention Code, and ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building operator or be posted in a publicly conspicuous location approved by the code official. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

B. Elevators. In buildings equipped with passenger elevators, not less than one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

SECTION 88-41, DUCT SYSTEMS

A. General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

ARTICLE 7 - FIRE SAFETY REQUIREMENTS

SECTION 88-42, GENERAL

A. Scope. The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

B. Responsibility. The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this chapter.

SECTION 88-43, MEANS OF EGRESS

A. General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way.

B. Means of egress components shall comply with the Florida Fire Prevention Code.

SECTION 88-44, FIRE-RESISTANCE RATINGS

A. Fire-resistance-rated assemblies and opening protectives shall comply with the Florida fire prevention Code.

SECTION 88-45, FIRE PROTECTION SYSTEMS

A. General. Systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the Florida Fire protection Code.

B. Fire protection systems, including but not limited to, automatic sprinkler systems, fire department connections, and smoke detectors, shall comply with the Florida Fire Prevention Code.

ARTICLE 8 - REFERENCED STANDARDS

This Article lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title. The application of the referenced standards shall be as specified in Section 88-2.G.

ASME

American Society of Mechanical Engineers

Three Park Avenue

New York, NY 10016-5990

Standard reference number ASME A17.1/CSA B44, Title - 2013 Safety Code for Elevators and Escalators

ASTM

ASTM Florida

100 Barr Harbor Drive

West Conshohocken, PA 19428-2959

Standard reference number, Title F 1346—91 (2010) Title - Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs

FBC

Florida Building Code, Florida Building Commission

Florida Department of Business & Professional Regulation

2601 Blair Stone Road

Tallahassee, FL 32399

Sixth Edition 2017 FBC Building Code

Sixth Edition 2017 FBC Existing Building Code

Sixth Edition 2017 FBC Fuel Gas Code

Sixth Edition 2017 FBC Mechanical Code

Sixth Edition 2017 FBC Plumbing Code

Sixth Edition 2017 FBC Residential Code

FFPC

Florida Fire Prevention Code

200 East Gaines Street

Tallahassee, FL 32399-0322

Sixth Edition 2017 Florida Fire Prevention Code

NFPA

National Fire Protection Association

1 Batterymarch Park

Quincy, MA 02269

Standard reference number Title 25-14, Title - Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems

Standard reference number 70—14, Title - National Electrical Code”

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

Margret 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