

ORDINANCE NO. 2020-06

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, AMENDING THE VILLAGE'S LAND DEVELOPMENT REGULATIONS; AMENDING CHAPTER 6, "BUILDINGS AND BUILDING REGULATIONS," TO ALLOW ENCROACHMENTS IN EASEMENTS UNDER SPECIFIED CIRCUMSTANCES, MODIFY THE PROCEDURES APPLICABLE TO APPEARANCE REVIEW AND ADOPT A SITE PLAN AND APPEARANCE REVIEW PROCEDURE; AMENDING CHAPTER 17, "LICENSES AND BUSINESS REGULATIONS," TO ALLOW HOME OCCUPATIONS WITHIN SPECIFIED COMMERCIAL DISTRICTS; AMENDING CHAPTER 19, "OFFENSES AND MISCELLANEOUS PROVISIONS," TO REFERENCE MIXED USE ZONING WITHIN THE NOISE REGULATIONS; AMENDING CHAPTER 21, "PLANNING AND DEVELOPMENT," TO PROVIDE PUBLIC NOTICE FOR WAIVERS AND MODIFY PROCEDURAL REQUIREMENTS; AMENDING CHAPTER 27, "TREES AND SHRUBBERY," TO DELETE ARTICLE III, "LANDSCAPING;" AMENDING APPENDIX A, "APPEARANCE PLAN," TO RECOGNIZE CHANGES TO DISTRICT REGULATIONS, ENCOURAGE SPECIFIC ARCHITECTURAL STYLES AND MODIFY THE CRITERIA; AMENDING APPENDIX B (CHAPTER 36), "SUBDIVISIONS," TO REMOVE CONFLICTS WITH NEW ZONING REGULATIONS; AMENDING APPENDIX C (CHAPTER 45), "ZONING," BY: AMENDING ARTICLE I, "IN GENERAL," TO MODIFY THE DEFINITIONS AND CONFLICT PROVISIONS; AMENDING ARTICLE II, "GENERALLY," TO IDENTIFY CHANGES TO THE NAMES OF CERTAIN ZONING DISTRICTS AND THE ELIMINATION OF OTHERS AND MODIFY THE SIMILAR USE AND SPECIAL EXCEPTION PROCEDURES; AMENDING ARTICLE III, "DISTRICT REGULATIONS," BY AMENDING SECTION 45-31 TO CHANGE THE NAME OF THE C-A COMMERCIAL DISTRICT TO THE C-MU US-1 MIXED USE DISTRICT, MODIFY THE REGULATIONS INCLUDING PERMITTED AND SPECIAL EXCEPTION USES AND APPLY SUCH REGULATIONS TO ALL PROPERTIES CURRENTLY ZONED C-A; DELETING SECTION 45-31.1 TO ELIMINATE THE C-B COMMERCIAL DISTRICT; DELETING SECTION 45-32 TO ELIMINATE THE C-1A LIMITED COMMERCIAL DISTRICT; AMENDING SECTION 45-32.1 TO CHANGE THE NAME OF THE C-C TRANSITIONAL COMMERCIAL DISTRICT TO THE C-T TRANSITIONAL COMMERCIAL DISTRICT, MODIFY THE REGULATIONS INCLUDING PERMITTED USES AND APPLY SUCH REGULATIONS TO ALL PROPERTIES CURRENTLY ZONED C-C; AMENDING SECTION 45-33 TO CHANGE THE NAME OF THE C-1 NEIGHBORHOOD COMMERCIAL DISTRICT TO THE C-S SHOPPING DISTRICT, MODIFY THE REGULATIONS INCLUDING PERMITTED AND SPECIAL EXCEPTION USES, AND APPLY SUCH REGULATIONS TO ALL PROPERTIES CURRENTLY ZONED C-1; AMENDING SECTION 45-34 TO CHANGE THE NAME OF THE COMMERCIAL DISTRICT TO THE C-G GENERAL COMMERCIAL DISTRICT, MODIFY THE REGULATIONS AND APPLY SUCH REGULATIONS TO ALL PROPERTIES CURRENTLY ZONED

COMMERCIAL; AMENDING SECTION 45-35.1 TO MODIFY THE REGULATIONS APPLICABLE TO PLANNED UNIT DEVELOPMENTS; AMENDING SECTION 45-35.2 TO RENAME THE C-OS CONSERVATION AND OPEN SPACE DISTRICT TO THE OS CONSERVATION AND OPEN SPACE DISTRICT; AMENDING SECTION 45-35.3 TO ELIMINATE THE NORTHLAKE BOULEVARD OVERLAY ZONING DISTRICT AND CREATE A NEW C-NB NORTHLAKE BOULEVARD COMMERCIAL DISTRICT AND MODIFY THE REGULATIONS INCLUDING PERMITTED AND SPECIAL EXCEPTION USES; AMENDING SECTION 45-36 TO REVISE THE OFF-STREET PARKING REGULATIONS, THE HEIGHT REGULATIONS AND THE OUTDOOR SEATING REGULATIONS; AMENDING SECTION 45-38 TO MODIFY THE I-1 LIGHT INDUSTRIAL ZONING REGULATIONS RELATING TO OUTDOOR RUNS AND DOG EXERCISE AREAS; RENAMING ARTICLE VI, "AMENDMENTS—FEES; WAITING PERIODS," TO "REZONINGS; VARIANCES; WAIVERS," AND MODIFYING THE REGULATIONS APPLICABLE TO REZONINGS AND VARIANCES AND ADOPTING NEW REGULATIONS FOR WAIVERS WITHIN THE C-MU AND C-NB ZONING DISTRICTS; AMENDING ARTICLE VII, "NON-CONFORMING USES OF LAND AND STRUCTURES," TO ALLOW THE EXTENSION AND ENLARGEMENT OF NON-CONFORMING USES AND STRUCTURES UNDER SPECIFIED CIRCUMSTANCES; AND ADOPTING A NEW ARTICLE VIII, "LANDSCAPING," TO MODIFY AND UPDATE THE CURRENT LANDSCAPING REQUIREMENTS FOR MULTI-FAMILY, MIXED USE, COMMERCIAL AND INDUSTRIAL DEVELOPMENTS; UPDATING CROSS-REFERENCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, in August 2015, the Village contracted with the Treasure Coast Regional Planning Council ("TCRPC") to develop a master plan for future infill development and redevelopment within its corporate limits, as well as a community-based vision for economic growth; and

WHEREAS, from January 30, 2016 through February 5, 2016, TCRPC conducted a week-long economic development and urban design charrette to assist the Village in accomplishing its goals; and

WHEREAS, working with members of the public and other interested parties, TCRPC created its report, and through the adoption of Resolution No. 2016-73 on October 27, 2016, the Village Council formally adopted "The Village of North Palm Beach Citizens' Master Plan Report dated October 20, 2016" prepared by the TCRPC, including the recommendations contained therein, as setting forth the guiding principles for future development and redevelopment within the Village; and

WHEREAS, one of the Master Plan's key recommendations is to develop a form-based code for the Village's commercial corridors, and the Village retained the firm of Dover, Kohl & Partners, and its consultant, Spikowski Planning Associates, to develop the form-based code for the Village's commercial zoning districts and

WHEREAS, the Village Council wishes to amend its land development regulations to adopt the form-based code prepared by the Village's consultants, in addition to certain other revisions recommended by Village residents, Village Staff, and the Village's advisory boards; and

WHEREAS, on July 7, 2020, the Planning Commission, sitting as the Local Planning Agency, conducted a public hearing to review this Ordinance and provide a recommendation to the Village Council; and

WHEREAS, having considered the recommendation of the Planning Commission and conducted all required advertised public hearings, the Village Council determines that the adoption of this Ordinance is in the interests of the health, safety and welfare of the residents and citizens of the Village of North Palm Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA as follows:

Section 1. The foregoing recitals are ratified as true and correct and are incorporated herein.

Section 2. The Village Council hereby amends Chapter 6, "Buildings and Building Regulations," of the Village Code of Ordinances to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

ARTICLE I. IN GENERAL.

Sec. 6-1. Construction on public land prohibited.

It shall be unlawful for any person to erect or maintain, or to permit the erection or maintenance of any structure of any kind, including a wall upon, across, over or under any portion of any publicly dedicated utility or drainage easement area in the village unless the person has received the written approval of and/or executed encroachment agreements with all easement holders and received approval from the village. This prohibition does not apply to sidewalks or paths of any kind that are lawfully placed under overhead wires.

* * *

ARTICLE III. APPEARANCE CODE.

DIVISION 1. GENERALLY.

Sec. 6-30. Short title.

This article, including any regulation hereafter adopted, shall hereafter be known, cited and referred to as the "Appearance Code."

Sec. 6-31. Definition.

The term "external architectural feature" is defined to mean the architectural style, color and general arrangement of such portion of a building or structure, including signs and accessory structures, as is designed to be open to view from a public street, place or way, or from adjoining premises.

Sec. 6-32. Intent and purposes.

This appearance code is adopted for the following purposes:

- (1) To promote the public health, safety, morals, comfort and general welfare of the citizens of the village.
- (2) To enhance the values of property throughout the village.
- (3) To protect and to stabilize the general appearance of public and private buildings, structures, landscaping, and open areas, in the multiple dwelling, commercial and public zoning districts of the village.
- (4) To ensure ~~insure~~ adequate light, air and privacy for property in the multiple dwelling, commercial and public zoning districts of the village.
- (5) To ~~encourage and~~ promote acceptability, attractiveness, cohesiveness and compatibility of new buildings, developments, remodeling and additions so as to maintain and improve the established standards of property values within the for multiple-dwelling, commercial, mixed-use, and industrial buildings. and public zoning districts of the village.

Sec. 6-33. Appearance plan.

The village hereby adopts by reference thereto the appearance plan attached as exhibit A to Ordinance No. 3-72 of the village. The appearance plan is set forth at length in Appendix A of this Code. The appearance plan will be applied through the site plan and appearance review process described in this chapter.

Sec. 6-34. Reserved.

Sec. 6-35. Appeals and review.

The applicant or any interested party may file an appeal to the village council on any final ruling by the planning commission made pursuant to this article. An appeal shall be on forms provided by the village. The appeal shall be filed or made within ten (10) days after the decision of the planning commission. Appeals shall set forth the alleged inconsistency or nonconformity with procedures or criteria set forth in this article or standards set forth in or pursuant to this article. Appeals filed pursuant to this section shall be based solely on the record of the proceedings before the planning commission and the village council shall not conduct a de novo review. The village council shall decide an appeal within ~~thirty (30)~~ forty-five (45) days of the filing of such appeal unless an extension of time is consented to by the applicant, and such filing shall suspend any building permit issued pursuant to the ruling of the planning commission until the village council has decided the appeal. The village council may review any decision of the planning commission issued pursuant to this article and their council's disposition of the matter shall be final.

Sec. 6-36. Powers and duties of planning commission concerning the appearance code.

The planning commission shall have the following powers and duties:

- (1) To hold public hearings on and make recommendations for amendments to the appearance plan.
- (2) To consult with and cooperate with ~~the planning and zoning advisory board, the beautification committee and other committees and~~ village departments, and any other municipal or governmental bodies, on matters affecting the appearance of the village.
- (3) To study exterior design drawings, landscape and site plans and materials for any proposed public buildings, public works, or other public improvements and to make recommendations to the council or village manager as to the architectural or aesthetic aspects thereof.
- (4) To study and review preliminary and final plats and make recommendations to ~~the planning and zoning advisory board and the village council.~~
- (5) To hold site plan and appearance review hearings, when required, ~~on the issuance of certificates of appropriateness as provided in section 6-59, in connection with questions pertaining to applications for building permits and to issue or deny site plan and appearance approval for multiple-dwelling, commercial, mixed-use, and industrial buildings such certificates pursuant to the provisions of this division and the appearance plan in Appendix A of this code. such section 6-59.~~

* * *

DIVISION 3. SITE PLAN AND APPEARANCE REVIEW CERTIFICATE OF APPROPRIATENESS

Sec. 6-56. Application requirements. Preliminary consideration.

Applications for site plan and/or appearance review must include sufficient information to demonstrate compliance with all village requirements. Plans must be professionally prepared and drawn to scale with accurate dimensions, and must include the following unless waived by the community development director:

- (1) The application must be signed by the landowner or must include a statement signed by an agent, under oath, indicating authorization by the owner(s) to secure site plan and appearance approval.
- (2) A boundary sketch including the total area, dimensions, and legal description for the property. The community development director may

require a survey if deemed necessary to facilitate review of the application.

- (3) A site plan showing all proposed improvements, including not limited to, existing and proposed parking spaces, access aisles, driveways, and access points to external streets or adjoining properties. The plan shall show the existing structures and all proposed development, with sufficient detail as to the size and appearance of all structures and improvements to indicate compliance with all village requirements and regulations, including the appearance plan. The plans shall also show all structures within two hundred (200) feet of the property.
- (4) Conceptual civil plans showing proposed changes affecting drainage and utilities. Final civil plans shall be provided during the permitting process.
- (5) Elevations or renderings of proposed structures and landscaping as required by the community development department.
- (6) Landscape plans that comply with section 45-86.
- (7) Photometric plans as required by the community development department.
- (8) Written narrative explaining the proposed development and its consistency with the village appearance plan, village code, and village comprehensive plan.
- (9) Other relevant information as requested by the community development department.

~~The planning commission shall, at the written request of a prospective applicant for a certificate of appropriateness, give consideration to preliminary exterior drawings, sketches, landscape and site plans and materials on a specific project before a formal application is filed, and shall provide such advice, counsel, suggestions and recommendations on matters pertaining to aesthetics as they may deem necessary to guide such prospective applicant in the development of a plan which would comply with the requirements and purposes of the appearance plan; except that the planning commission shall act in an advisory capacity only, with regard to preliminary plans, and shall provide consultation only on projects for which preliminary drawings and materials are furnished by such prospective applicant, and shall not participate in the development of the basic concept, plans or drawings. Upon finding the preliminary exterior drawings, sketches, landscape and site plans and materials are appropriate to, or compatible with, the character of the immediate neighborhood and will tend to effect the general purposes of the appearance plan, the board will issue a preliminary approval. Such approval will be irrevocable, and makes the issuance of the certificate of appropriateness mandatory upon application, unless the final presentation does not comply in all respects with the preliminary presentation upon which the preliminary approval was based.~~

Sec. 6-57. Final Site Plan and Appearance Hearings.

Upon filing of an complete application for site plan and appearance approval ~~building permit~~ for a multifamily, ~~or commercial, mixed-use, or industrial~~ building or structure, the community development department shall schedule the application for a hearing before the planning commission. ~~The fact that an application for a certificate of appropriateness has been filed shall not be cause for the community development department to delay the review of plans relating to the building and zoning aspects of the project, while the application is pending.~~ The planning commission shall establish regularly scheduled ~~monthly~~ meetings at which to review all site plan and appearance applications. ~~Applications shall be submitted at least fourteen (14) days prior to the scheduled monthly meetings, or as otherwise determined by the community development director, in order to be considered at that scheduled monthly meeting.~~ The community development department shall prepare an agenda containing a list of all applications filed for each scheduled monthly meeting, which shall be submitted to all members of the planning commission at least five (5) days prior to the scheduled monthly meetings. The community development department shall further notify each applicant of the date and time of a hearing on his the application, in writing, which notice shall be mailed at least five (5) days prior to such hearing. If the application includes a request for a special exception (section 45-16.2), variance (section 45-50), or waiver (section 45-51), the hearing shall be considered a formal public hearing and notice shall be provided in accordance with section 21-3. Upon such hearing, the planning commission shall consider the application for building permit site plan and appearance approval and any related requests for special exceptions, variances, or waivers and may review receive additional evidence (such as the exterior renderings) from the applicant or his the applicant's agent or attorney. The planning commission shall consider reports and testimony and from village staff, the applicant, and ~~or~~ other persons as to whether the site plan and external architectural features of the proposed building or structure comply with the appearance plan and meet all applicable village land development regulations.

Sec. 6-58. Action of planning commission.

Upon consideration of an application, the planning commission shall issue site plan and appearance approval ~~a certificate of appropriateness to the community development department~~ upon a finding that the plan conforms to the village appearance plan and other applicable land development regulations. This approval may contain special conditions in response to unusual aspects of the application or to ensure that the approval carries out village policies and codes without undue permitting delays, and that the proposed building or structure is appropriate to, and compatible with, the character of the immediate neighborhood and will not cause a substantial depreciation in property values. If the planning commission determines that these criteria are not met, the planning commission may ~~shall~~ provide such advice, counsel, suggestions and recommendations ~~on matters pertaining to aesthetics~~ as it may deem necessary to guide the prospective applicant in the development of a plan which would comply with the requirements and purposes of the appearance plan and other village land development regulations. ~~If preliminary~~

~~hearings have been held on the project for which application is being made, and preliminary approval has been issued by the planning commission as provided in section 6-56, the planning commission shall issue a certificate of appropriateness immediately, provided that the final drawings, plans and material as presented comply in all respects with the preliminary presentation upon which the preliminary approval was based.~~

Sec. 6-59. Approval by planning commission.

~~The planning commission shall issue a certificate of appropriateness upon a concurring vote of at least three (3) members. No building or other permit, otherwise required under the ordinances of the village, for the erection, construction, alteration or repair of any building or structure in a multiple-dwelling, commercial or public zoning district shall be approved by the community development director except upon the granting of site plan and appearance approval a certificate of appropriateness by the planning commission, or on appeal, approval by the village council (see section 6-35). The foregoing requirements shall not preclude the issuance of a building permits without such approval certificate if the community development director shall determine that any of the following apply:~~

- ~~(1) The permits are for a single-family dwelling and/or normal accessory buildings or structures on the same lot; or~~
- ~~(2) The permits are for a village-owned facility; or~~
- ~~(3) No external architectural feature as defined in section 6-31 is involved in the work for which the building permit is sought, and the proposed work would be in full compliance with all requirements of this code; or-~~
- ~~(4) Any deviations from a valid site plan and appearance approval are minor and not substantial or had been authorized by conditions placed on the site plan and appearance approval. Unless authorized by prior conditions, the following types of deviations may never be considered minor or not substantial: increasing residential density; increasing the horizontal or vertical size of a building; and/or adding land uses that had previously been excluded. The director must document any such determination with an explanation of why is was deemed minor or had been authorized. The director must forward this determination to the planning commission, and also to the village council if the site plan and appearance approval had been appealed to or considered by the village council.~~

Sec. 6-60. Follow-up by community development department.

~~Upon the granting of site plan and appearance approval, a certificate of appropriateness, the community development director will retain the exterior drawings, sketches, landscape and site plans, renderings and materials upon which such approval certificate was granted shall be turned over to the community development department whose responsibility it shall be to determine, from time to~~

time as the project is in progress and finally upon its completion, that there have been no unauthorized deviations from the evidence upon which the granting of the approval certificate of appropriateness was originally based. The community development department shall not issue a certificate of occupancy or final inspection approval for any building or structure where there have been any unauthorized deviations from the site plan and appearance approval.

Section 3. The Village Council hereby amends Chapter 17, “Licenses and Miscellaneous Business Regulations,” of the Village Code of Ordinances by amending Article I to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

ARTICLE I. IN GENERAL

* * *

Sec. 17-3. Home occupations.

- (a) *Home occupations as permitted uses.* Home occupations shall be permitted uses within R-1 Single-family Dwelling District, R-2 Multiple-family Dwelling District, ~~and~~ R-3 Apartment Dwelling District, C-MU and C-3 mixed-use districts, and mixed-use Residential/Commercial PUDs.

Section 4. The Village Council hereby amends Chapter 19, “Offenses and Miscellaneous Provisions,” of the Village Code of Ordinances by amending Article VI to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

ARTICLE VI. NOISE CONTROL

Sec. 19-99. Definitions.

For the purposes of this article, whenever any of the following words, terms or definitions are used herein they shall have the meanings ascribed to them in this section except where the context requires otherwise:

* * *

Unreasonable noise means any noise in or emanating from any property located within the corporate limits of village which violates the provisions of this article.

- (a) For noise emanating from property with a *commercial, mixed-use, or light industrial zoning designation*, unreasonable noise shall be defined as any noise emanating from the property which equals or excess a measured sound level of sixty-five (65) dBA between the hours of 10:00 p.m. and 8:00 a.m. Sunday through Thursday, a measured sound level in excess of eighty-five (85) dBA between the hours of 8:00 a.m. and 10:00 p.m. Sunday through Thursday; and a measured sound level which equals or exceeds sixty-five (65) dBA between the hours of 11:00

p.m. and 8:00 a.m. Friday through Saturday and a measured sound level meeting or exceeding eighty-five (85) dBA between the hours of 8:00 a.m. and 11:00 p.m. Friday through Saturday.

- (b) For noise emanating from property with a *commercial, mixed-use, or light industrial zoning designation* which shares any portion of its boundary with a property with a residential zoning designation, unreasonable noise shall be defined as any noise emanating from the property which equals or exceeds a measured sound level of sixty (60) dBA between the hours of 10:00 p.m. and 8:00 a.m. Sunday through Thursday, a measured sound level in excess of seventy (70) dBA between the hours of 8:00 a.m. and 10:00 p.m. Sunday through Thursday; and a measured sound level which equals or exceeds sixty (60) dBA between the hours of 11:00 p.m. and 8:00 a.m. Friday through Saturday and a measured sound level meeting or exceeding seventy (70) dBA between the hours of 8:00 a.m. and 11:00 p.m. Friday through Saturday.
- (c) For noise emanating from property with a *residential zoning designation*, unreasonable noise shall be defined as noise that is plainly audible one hundred and fifty (150) feet from the property boundary of the source of the sound or noise, measured on a horizontal plane. Notwithstanding the foregoing, noise shall be considered unreasonable when it is plainly audible through the external walls and fully closed windows and doors of a residential structure or through walls, floors or partitions common to two (2) residential units located within a single structure.
- (d) Noise shall be measured from the property boundary closest to the source of noise with a sixty (60) second reading. Where the property boundary abuts a waterway, the property boundary shall be considered the opposite side of the waterway and not the actual seawall or bulkhead.

Section 5. The Village Council hereby amends Chapter 21, "Planning and Development," of the Village Code of Ordinances to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

ARTICLE I. IN GENERAL

* * *

Sec. 21-3. Public notice requirements for development applications and approvals.

- (a) ***Requirements.*** In addition to those requirements imposed by state law, public notice shall be provided as set forth below:

	Planning Commission/LPA/ Zoning Board of Adjustment			Village Council		
	Mail*	News- paper*	Post*	Mail*	Newspaper	Post*
Rezoning	10	7	15	10	Statutory notice for ordinance adoption	15
Large-scale Comprehensive Plan Amendment	10	7	15	10	Statutory notice for ordinance adoption	15
Small-scale Comprehensive Plan Amendment	10	7	15	10	Statutory notice for ordinance adoption	15
Variance**	7	7	10	N/A	N/A	N/A
<u>Waiver***</u>	<u>7</u>	<u>7</u>	<u>10</u>	<u>10</u>	<u>7</u>	<u>15</u>
Planned Unit Development	10	7	15	10	Statutory notice for ordinance adoption	15
Special Exception Use	<u>7</u> 10	7	<u>10</u> 15	10	Notice of public hearing <u>7</u> days prior to hearing or statutory notice for ordinance adoption (if within a PUD)	15

* Number of calendar days prior to date of the first required public hearing.

** The notice requirements for variances shall include all variances relating to the zoning code (Chapter 45), the dock and waterway regulations (Chapter 5), and the sign regulations (Chapter 6).

*** The notice requirements for waivers shall apply only to waivers requested pursuant to section 45-51 (Chapter 45).

(b) ***Mailing requirements.***

(1) ***Contents.*** Unless otherwise required herein, mail notice of a public hearing shall contain the following information:

- a. Title and substance of proposed ordinance or development order;
- b. Time, date and location of the public hearing;
- c. Location of the property affected by the application with reference to the nearest intersection of two (2) or more streets;
- d. Name, address and telephone number of the office where additional information can be obtained; and

e. Location and times where proposed ordinance or development order application may be reviewed.

- (2) All notices shall be provided by first-class mail, unless otherwise required by community development director. Mail notice shall be postmarked no later than the minimum number of calendar days as required in subsection (a) above.
- (3) Mail for all privately initiated applications shall be provided to all property owners of record, excluding property owned by the applicant, within five hundred (500) feet of the property to which the development order application or amendment relates.
- (4) The list of property owners shall be derived from the most recent official tax roll of Palm Beach County. The applicant shall provide an affidavit attesting to the completeness and accuracy of the property owner's list.
- (5) The applicant shall provide and mail all required notices, and provide an affidavit that notice was sent to all property owners included in the property owner's list.

(c) ***Posting requirements.***

- (1) The applicant shall provide the signs, subject to the criteria for size and contents established by the community development director.
- (2) The applicant shall install the signs in a workmanlike manner. All signs should be installed so as to withstand normal weather events.
- (3) The applicant shall post one (1) sign per five hundred (500) feet of lineal right-of-way, with a minimum of one (1) sign per frontage.
- (4) The applicant shall provide, at least three (3) days prior to the public hearing, a photograph of the sign and an affidavit attesting to the date of installation and the number of signs.

(d) ***Newspaper requirements.*** The applicant shall be responsible for all costs associated with newspaper advertisements.

ARTICLE II. PLANNING COMMISSION

Sec. 21-11. Composition; conduct generally.

* * *

(d) ***Powers, duties.*** The planning commission shall have the following powers and duties:

- (1) Perform any duties which lawfully may be assigned to it by the village council.
- (2) Perform any other duties which may be assigned to it under this Code.
- (3) The planning commission of the village is hereby designated as the governmental entity to act as the "local planning agency" in accordance with chapter 163, Florida Statutes.
- (4) The planning commission shall serve as the village's board of adjustment to consider variances and administrative appeals.
- (5) The planning commission has additional duties that include site plan and appearance review (see sections 6-30 through 6-60); the responsibility to make recommendations on special exceptions (see section 45-16.2); and the authority to approve waivers on land in the C-MU and C-NB zoning districts only (see section 45-51).

Sec. 21-12. - Changes to zoning ordinances.

- (a) The village council may amend or supplement the regulations and districts established by this code after receiving fixed by any zoning ordinance adopted pursuant to this act (Local Government Comprehensive Planning and Land Development Regulation Act) after referral and the recommendations of the planning commission. Proposed changes may be suggested by the village council or the village manager. Changes to zoning district boundaries may be requested in accordance with section 45-49. , by the planning commission, or by the petition of the owners of fifty one (51) percent or more of the area involved in the proposed change. In the latter case, the petitioners may be required to assume the cost of public notice and other costs incidental to the holding of public hearings.
- (b) The planning commission, regardless of the source of the proposed change, shall hold a public hearing or hearings thereon, with due public notice, but shall in any case, if any change is to be considered by the planning commission, submit in writing its recommendations on the proposed change to the village council for official action. The village council shall hold a public hearing thereon, with due public notice, if any change is to be considered and shall then act on the proposed change. If the recommendation of the planning commission is adverse to the proposed change, such change shall not become effective except by an affirmative vote of a majority of the entire membership of the village council, after due public notice.

Section 6. The Village Council hereby amends Chapter 27, "Trees and Shrubbery," of the Village Code of Ordinances to delete Article III, "Landscaping," in its entirety and amend Article II, "Trees in Swale Areas," as follows (additional language is underlined and deleted language is ~~stricken through~~):

* * *

Sec. 27-18. Variety and location.

* * *

- (b) Swale trees shall be planted so as not to impede the flow and storage of storm water. Swale trees shall be planted and maintained to provide safe sight distances in accordance with section ~~27-66~~ 45-90.C. Incidental plantings of flowers may be planted and maintained without permit subject to the same criteria described herein.

* * *

Section 7. The Village Council hereby amends Appendix A, "Appearance Plan," of the Village Code of Ordinances to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

* * *

SECTION I – BASIS FOR THE APPEARANCE PLAN

The North Palm Beach Village Council adopted an Appearance Code, Ordinance, Number 4-71, on May 27, 1971. This Ordinance provided for the appointment of an Appearance Board which would concern itself with and act in matters affecting the physical appearance of designated areas.

The Board was empowered to develop an Appearance Plan to serve as standards or guidelines for physical developments in the village. The Plan as amended, following public hearings, was adopted by the North Palm Beach Village Council, by Ordinance Number 3-72, dated 10 Feb. 1972.

~~The Appearance Ordinance, and applicable sections of the Appearance Plan, is will be~~ administered through the Office of the North Palm Beach director of community development. In 1977, the Planning Commission began serving as, with the Appearance Board and continues to act ~~aeting~~ upon matters relating to appearance as authorized by the Appearance Plan and Code.

* * *

SECTION III – AREAS OF JURISDICTION

AREAS AND ELEMENTS UNDER JURISDICTION

The jurisdictional areas of the Appearance Plan ~~Board~~ are all areas within the Village of North Palm Beach that are zoned:

- R-1 SINGLE-FAMILY DWELLING DISTRICT — Applies to all usages except single family and their normal accessory buildings
- R-2 MULTIPLE-FAMILY DWELLING DISTRICT

- R-3 APARTMENT DWELLING DISTRICT
- C-MU ~~C-A~~ US-1 MIXED-USE COMMERCIAL DISTRICT
- ~~CB~~ COMMERCIAL DISTRICT
- ~~C1A~~ LIMITED COMMERCIAL DISTRICT
- C-T ~~C-C~~ TRANSITIONAL COMMERCIAL DISTRICT
- C-S SHOPPING ~~C1~~ NEIGHBORHOOD COMMERCIAL DISTRICT
- C-G GENERAL ~~C2~~ AUTOMOTIVE COMMERCIAL DISTRICT
- C-3 REGIONAL MIXED-USE ~~PUBLIC~~ DISTRICT
- P PUBLIC DISTRICT
- OS ~~C-OS~~ CONSERVATION AND OPEN SPACE
- I-1 LIGHT INDUSTRIAL DISTRICT
- C-NB0Z NORTHLAKE BOULEVARD COMMERCIAL
OVERLAY ZONING DISTRICT

* * *

SECTION IV – CRITERIA FOR APPEARANCE

The purpose of these criteria is to establish a checklist of those items which affect the physical aspect of the village environment. Pertinent to appearance is the design of the site, building and structures, planting, signs, street hardware, and miscellaneous other objects which are observed by the public.

These criteria are not intended to restrict imagination, innovation, or variety, but rather to assist in focusing on design principles which can result in creative solutions that will develop a satisfactory visual appearance within the village.

A. RELATIONSHIP OF BUILDINGS TO SITE

1. The site shall be planned to accomplish a desirable connection transition with the streetscape, and to provide for adequate planting, pedestrian movement, and parking areas.

2. Site planning in which setbacks and yards are in excess of zoning restrictions is encouraged where such increases are permitted by the zoning code to provide an interesting relationship between buildings. In zoning districts where a build-to line is used in lieu of front setbacks, building facades must be placed within those build-to zones unless a waiver is obtained from the build-to requirements.

3. Parking areas shall be concealed where required by the zoning code or treated with decorative elements, building wall extensions, plantings, berms or other innovative means so as to largely screen parking areas from view from public ways and adjoining properties.

4. The height and scale of each building shall be compatible with its site and adjoining buildings except where redevelopment at higher intensities is anticipated in a particular zoning district.

5. Newly installed utility services, and service revisions necessitated by exterior alterations, shall be underground.

6. In relating buildings to site, the provisions of the Zoning Ordinance in regard to bulk regulations, standards, and off-street parking shall be part of this criteria. This shall also apply to subsection B which follows.

B. RELATIONSHIP OF BUILDING AND SITE TO ADJOINING AREA

1. Adjacent buildings of different architectural styles or characteristics may ~~shall~~ be made more compatible by such means as screens, site breaks, and materials.

2. Attractive landscape transitions to adjoining properties are encouraged. ~~shall be provided.~~

3. Harmony in texture, lines, and masses is required. Monotony shall be avoided.

4. Buildings shall have similar scale to those in the surrounding area except where redevelopment at higher intensities is anticipated in a particular zoning district.

* * *

D. BUILDING DESIGN

1. Specific architectural styles are is not restricted mandated or banned, but the village encourages new buildings to reflect or evolve the distinct local character exemplified by the North Palm Beach Country Club Clubhouse, Village Hall and the Public Safety Building. This character is derived from local and regional examples including Anglo-Caribbean architecture, Florida vernacular, and masonry modern.

2. Evaluation of appearance of a project shall be based on quality of its design and relationship to surroundings.

3. ~~2.~~ Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.

4. ~~3.~~ Materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.

- a. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those which are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways and adjoining properties.
- b. Inappropriate materials and methods, and those which will produce inconsistency with the structure of the building, shall be avoided.
- c. Materials shall be of durable quality.
- d. In any design in which the structural frame is exposed to view, the structural materials shall meet the other criteria for materials.

5. ~~4.~~ Building components—such as windows, doors, eaves, and parapets—shall have good proportions and relationship to one another.

6. The village discourages walls without windows or with too few windows; all-glass walls; and facades without visual interest or with entrances that are concealed or absent.

7. ~~5.~~ Colors shall be harmonious, with bright or brilliant colors used only for accent.

8. ~~6.~~ Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be located so as not to be visible from any public ways, including waterways, service alleys, and adjoining properties.

9. ~~7.~~ Exterior lighting shall be part of the architectural concept. Fixtures, standards and all exposed accessories shall be harmonious with building design.

10. ~~8.~~ Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from public ways, including waterways, service alleys, and adjoining properties, using materials as stated in criteria for equipment screening.

11. ~~9.~~ Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting or individual buildings may be used to prevent a monotonous appearance.

12. ~~10.~~ Inappropriate, incompatible, bizarre, and exotic designs shall be avoided.

13. ~~11.~~ The provisions of the North Palm Beach Village Code in regard to bulk regulations and standards, and those portions of the Village Code which directly affect appearance, shall be part of the criteria of this subsection.

* * *

Section 8. The Village Council hereby amends Appendix B (Chapter 36), "Subdivisions," of the Village Code of Ordinances to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

* * *

ARTICLE III. DESIGN STANDARDS

* * *

Sec. 36-18. Lots and blocks.

Lots and blocks shall be designed according to acceptable practice for the type of development and use contemplated so as to be aesthetically acceptable; in keeping with the topography and other site conditions and to provide adequate traffic and utility access and circulation; acceptable use of space; provide privacy, adequate drainage and protection of property.

- (1) ***Lot size.*** The lot size, width, depth, shape and orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated. Lot dimensions and ~~all~~ building setback lines shall meet all standards for the applicable zoning district. ~~not be less than the minimum standards established in the zoning ordinance.~~
- (2) ***Reserved. Residence lots, minimum.***
 - (a) ~~Lots zoned, restricted, used or intended for use for residences shall have a width of not less than eighty five (85) feet at the setback line and an area of not less than ten thousand, five hundred (10,500) square feet.~~
 - (b) ~~Corner lots shall have a width of not less than ninety (90) feet at the setback line and an area of not less than thirteen thousand (13,000) square feet.~~
- (3) ***Access.*** Each lot, ~~for a minimum frontage distance of fifty seven (57) feet,~~ shall abut on a public street. Lots may not be configured so that the portion fronting on a public street is a narrow extension of the lot primarily for vehicular or pedestrian access. This requirement shall not be construed to prohibit private streets within developments where the land remains under one ownership. The subdivision shall be so designed that remnants and land-locked areas shall not be created.

- (4) **Lot lines.** Side lot lines shall be, as nearly as practical, at right angles to straight street lines and radial to curved street lines. No lot shall be divided by a municipal boundary.
- (5) **Double frontage lots.** Double frontage, and reverse frontage lots, shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least twenty (20) feet, and across which there shall be no right of vehicular access, shall be provided along the line of lots abutting such traffic artery or other inharmonious use.
- (6) **Block lengths.** Block lengths shall not exceed fourteen hundred (1400) feet or be less than three hundred (300) feet, as measured between center lines of bounding streets. See section 36-19(16) for streets ending in culs-de-sac.

Sec. 36-19. Streets.

The arrangement, character, extent, width, grade and location of all streets shall conform to the comprehensive plan now in existence or as may hereafter be adopted, and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

Where such is not shown in the comprehensive plan now in existence or as may be hereafter adopted, the arrangement of streets in a subdivision shall either: (a) Provide for the continuation or appropriate projection of existing major streets in surrounding areas, or (b) conform to a plan for the neighborhood or be aligned to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

All streets to be established within a subdivision shall meet the following minimum design standards:

* * *

- (5) **Minimum street design specifications.** All streets to be established in a subdivision shall be designed in accordance with the following minimum specifications:

	<i>Collector Street</i>	<i>Local Street</i>	<i>Marginal Access</i>
<i>Minimum right-of-way</i>	80 ft.	60 ft.	40 ft.
<i>Percent grade of roadway center line (minimum):</i>	0.30%	0.30%	0.30%
<i>Geometric design shall comply with the latest AASHTO requirements, or as specified in zoning district standards.</i>			

* * *

ARTICLE IV. REQUIRED IMPROVEMENTS

* * *

Sec. 36-29. - Sidewalks.

A system of sidewalks shall be provided by the subdivider to provide for safe movement of pedestrians separate from motor vehicle traffic. Except as provided below, sidewalks shall be provided along both sides of all streets, and along all streets where adjacent land is zoned or otherwise designated to be used for multiple-family dwelling purposes or for mixed-use, commercial, and/or office purposes. As an alternative, and as approved by the village council, sidewalks in residential areas may be provided within common open areas.

Sidewalks shall be constructed per standards established by chapter [24], village Code.

Section 9. The Village Council hereby amends Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by amending Section 45-2, "Definitions," of Article I, "In General," to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

Sec. 45-2. Definitions.

For the purpose of this code ordinance, certain words and terms are defined as follows:

Dwelling unit is a single unit providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation. For purposes of computing residential density in commercial zoning districts that allow mixed uses, a dwelling unit that contains only one bedroom, or no separate bedroom, will be counted as one-half a dwelling unit.

Liner building means a separate building along a street or other public space that hides parking or blank walls from view.

Medical or dental office or clinic means a facility providing health care services to the public by physicians, dentists, chiropractors, osteopaths, physical therapists, nurses, acupuncturists, podiatrists, optometrists, psychiatrists, veterinarians, or others who are duly licensed to practice their respective medical or dental profession in the State of Florida, as well as those technicians and assistants who are acting under the supervision and control of a licensed health care practitioner. These uses shall not include establishments where patients are lodged overnight and are subject to additional regulations regarding the dispensing of controlled substances set forth in section 45-36.S of this chapter. Notwithstanding the foregoing, accessory uses for veterinary clinics include day and overnight boarding for patients and outside runs and exercise areas for dogs.

Mixed-use commercial means a development pattern where complementary uses of land are located within walking distances. Complementary uses may include combination of retail commercial; and non-retail commercial such as offices; lodging uses; civic and education uses; and dwellings other than one-family detached dwellings. ~~businesses where non-retail tenants comprise fifty (50) percent or more of the gross floor area. Any combination of retail and non-retail businesses where the retail component comprises fifty (50) percent or more of the gross floor area shall be classified as a retail commercial facility.~~

Use group means any of the four groups of allowable uses that certain zoning districts employ to define uses that are permitted by right, permitted by special exception only, or are not permitted in that zoning district. The four groups are Residential Uses, Lodging Uses, Business Uses, and Civic & Education Uses. The following terms are used in these use groups:

RESIDENTIAL USE-GROUP DEFINITIONS:

Mobile home park is defined earlier in section 45-2.

Dwelling, one family detached (single-family dwelling) is a building containing one dwelling unit that is not attached to any other dwelling by any means (see definition of dwelling and dwelling unit earlier in section 45-2).

Dwelling, all other dwelling types (see definition of dwelling and dwelling unit earlier in section 45-2).

Live/work unit is a single dwelling unit in a detached building, or in a multifamily or mixed-use building, that also accommodates permitted commercial uses within the dwelling unit.

Assisted living facility is defined earlier in section 45-2.

Community Residential Home is defined earlier in section 45-2.

LODGING USE-GROUP DEFINITIONS:

Bed and breakfast establishment is a dwelling unit or guest rooms personally and physically operated and occupied by an owner or manager where transient guests are permitted to reside and are provided breakfast in exchange for payment.

Hotel is a facility offering transient lodging accommodation to the general public and which may include additional facilities and services such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities.

Motel is defined earlier in section 45-2.

Time-share unit is defined earlier in section 45-2.

BUSINESS USE-GROUP DEFINITIONS:

Offices, general is a room or group of rooms used to conduct the affairs of a business, profession, service, or government and generally furnished with desks tables, files, and communication equipment. A medical or dental office or clinic is not considered 'Offices, general' for purposes of this code.

Office or clinic, medical or dental (see definition of medical or dental office or clinic earlier in section 45-2; also see additional regulations in subsections 45-36.S and 45-36.T).

Stores & services, general means establishments that sell food or merchandise or provide personal or professional services, including but not limited to the following uses that are defined earlier in section 45-2: drug store; non-retail commercial; office or clinic, medical or dental; personal care; pharmacy; and retail commercial. The following uses are not considered 'Stores & services, general' for purposes of this code:

- Stores & services, large format
- Adult entertainment
- Contractor and trade operation
- Convenience store with fuel
- Dog daycare
- Drive-through facility (for any use)
- Garage, parking
- Heavy commercial and light industrial
- Limited access self-storage facilities
- Medical marijuana treatment center
- Medical marijuana treatment center dispensing facility
- Restaurant or cocktail lounge
- Telecommunications antenna
- Vehicle sales or repair

Stores & services, large format has the same meaning as 'Stores & services, general' as defined by this code, except that the establishment contains over 50,000 square feet of enclosed floor area.

Adult Entertainment is defined earlier in section 45-2.

Brewery with offsite distribution is an establishment primarily engaged in the production and distribution of beer, ale or other malt beverages, and which may include accessory uses such as tours of the brewery, retail sales, and/or on-site consumption, e.g., a "taproom."

Contractor and trade operation is an establishment that is primarily engaged in providing an off-site service but which maintains a business office and inventory or equipment at a central location, such as a general contractor or subcontractor, pest control operator, caterer, surveyor, etc.

Convenience store with fuel is an establishment that provide limited services primarily to the motoring public such as fuel sales, car washing, or car detailing, and that may also sell merchandise including food and beverages.

Dog daycare is an establishment providing daytime care and training for domestic dogs and other pets.

Drive-through facility is any establishment that provides physical facilities which allow its customers to obtain food or goods, receive services, or be entertained while remaining in their vehicles.

Garage, Parking. A building or structure or portion thereof used exclusively for the storage or parking of automobiles. Service other than storage shall be limited to refueling, lubrication, and detailing.

Heavy commercial and light industrial is any commercial or industrial use that the Village of North Palm allows only in the C-G and I-1 zoning districts or does not allow in any zoning district, including but not limited to:

- Contractor and trade operation
- Junkyard
- Kennel (commercial)
- Limited access self-storage facility
- Light manufacturing
- Vehicle sales or repair
- Warehouse

Limited access self-storage facility is an enclosed structure primarily for indoor storage.

Medical marijuana treatment center is defined earlier in section 45-2.

Medical marijuana treatment center dispensing facility is defined in in section 45-38 and prohibited in section 45-39.

Restaurant or cocktail lounge is an establishment where food and drink are prepared, served, and consumed mostly within the principal building; outdoor seating is subject to separate provisions in this code. A brewpub or brewery taproom shall be considered a restaurant or lounge provided that there is no offsite distribution or wholesaling.

Telecommunications antenna include antenna towers (see definition of antenna and antenna tower earlier in section 45-2).

Vehicle sales or repair includes any establishment that repairs or displays and sells new or used motor vehicles including automobiles, motorcycles, golf carts, trucks, watercraft, recreational vehicles, and trailers.

CIVIC & EDUCATION USE-GROUP DEFINITIONS:

Child care facility is defined earlier in section 45-2.

Church or place of worship means a premises or structure used primarily or exclusively for religious worship and related religious services on a permanent basis by a tax-exempt religious group, sect, or denomination registered as a not-for-profit organization pursuant to Section 501(C)(3) of the United States Internal Revenue Code, as amended. A church or place of worship may include retreat site camp, convent, seminary or similar facilities operated for religious activities.

Civic space is a small outdoor space that serves as a focal point for civic and recreational uses. Civic spaces are typically constructed by landowners when they build on adjoining property.

Family day care is defined earlier in section 45-2.

Government buildings are provided by village, state, regional, or federal agencies to carry out public purposes.

Hospital or medical center means a facility which provides primary, secondary, or tertiary medical care, emergency medical services, including preventative medicine, diagnostic medicine, treatment and rehabilitative service, medical training programs, medical research, and may include association with medical schools or medical institutions.

Public space is an outdoor space that is maintained by a government, private or nonprofit entity as a civic amenity for the general public. Public spaces include, but are not limited to, plazas, parks, playgrounds and water accesses.

School, public or private means an institution of learning which conducts regular classes and courses of study required for accreditation as an elementary or secondary school by the State Department of Education of Florida.

Section 10. The Village Council hereby amends Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by amending Section 45-4, "Conflict of provisions," of Article I, "In General," to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

Sec. 45-4. Conflict of provisions.

- (1) It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties.
- (2) That where this village codes and ordinances imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings, or requires larger open spaces than are imposed or required

by other ~~ordinances~~, rules, regulations, ~~or by~~ easements, covenants, or agreements, the provisions of this village codes and ordinances shall control.

Section 11. The Village Council hereby amends Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by amending Section 45-16, "Division of village into districts; districts enumerated," of Article II, "Generally," to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

Sec. 45-16. Division of village into districts; districts enumerated.

In order to classify, regulate and restrict the uses of land and buildings, the height and bulk of buildings, the amount of open spaces about buildings, intensity of land use, the Village of North Palm Beach, Florida is divided into twelve (12) zoning districts, as follows:

- R-1** Single-family dwelling district
- R-2** Multiple-family dwelling district
- R-3** Apartment dwelling district
- C-MU** US-1 mixed-use ~~C-A commercial~~ district
~~C-B Commercial~~ district
~~C-1A Limited commercial~~ district
- C-T** ~~C-C~~ Transitional commercial district
- C-S** Shopping ~~C-1 Neighborhood~~ commercial district
- C-G** General ~~C-2 Automotive~~ commercial district
- C-3** Regional mixed-use business district
- P** Public district
- OS** ~~C-OS~~ Conservation and open space
- I-1** Light industrial district
- C-NB** Northlake Boulevard commercial district

In the creation of this ordinance of the respective districts, the village council has given due and careful consideration to the peculiar suitability of each district for the particular uses and regulations applied thereto and to the densities of population, all in accordance with the comprehensive development plan of the village.

Section 12. The Village Council hereby amends Appendix C (Chapter 45), “Zoning,” of the Village Code of Ordinances by amending Section 45-16.1, “Similar uses,” of Article II, “Generally,” to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

Sec. 45-16.1. - Similar uses.

- (a) The community development director shall determine which uses proposed A use within a commercial or mixed-use zoning district have substantially the same characteristics as a use not specifically listed as a permitted use, but possessing Proposed uses with characteristics that are similar to a permitted use, but not substantially the same, may be established only upon written application to the community development director for a special use permit.
- (b) In evaluating an application for a special use permit for the establishment of a similar use, the community development director shall, in consultation with other village departments, consider the characteristics of the proposed use, including, but not limited to, size, intensity, density, operating hours, demands for public facilities, traffic impacts and business practices.
- (c) Upon review and evaluation of the application, the community development director shall present his or her recommendation to the village council for final consideration on the next available council agenda.
- (d) The village council shall conduct a public hearing on the application for special use permit and determine whether the application meets the criteria set forth in subsection (b) above. Public notice is not required for special use permit hearings. The village council shall grant or deny the application by written order.
- (e) In granting a special use permit, the village council may impose conditions necessary to ensure that the proposed use:
 - (1) Is compatible with the existing or planned character of the neighborhood in which it would be located;
 - (2) Will not have an adverse impact upon adjacent properties; and
 - (3) Will not interfere with the use of adjacent properties.

Such conditions may include restrictions on the size and operating hours of the proposed use.

- (f) If the conditions imposed by the special use permit are not met, the community development director may revoke the permit. A permit holder may appeal the revocation of a special use permit by filing an appeal, in writing, to the ~~Zoning Board of Adjustment~~ Planning Commission within thirty (30) days of receipt of written notice of revocation.

Section 13. The Village Council hereby amends Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by amending Section 45-16.2, "Special exception uses," of Article II, "Generally," to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

Sec. 45-16.2. Special exception uses.

* * *

(e) ***Procedure.***

- (1) The special exception use shall be subject to preliminary review by the community development department. Once the community development director certifies that the application is complete, the director shall forward it to the planning commission for a public hearing.
- (2) The planning commission shall review the application and forward a recommendation of approval, approval with conditions or denial to the village council. If the special exception request was included with a site plan and appearance application, the planning commission shall forward the complete application to the village council for final decision.
- (3) Upon receipt of ~~the~~ a recommendation of the planning commission, the village council shall conduct a public hearing and determine whether the proposed special exception use meets the requirements of this section. The village council shall approve, approve with conditions or deny the application at the close of the public hearing. The approval of a special exception use, with or without conditions, shall be in the form of a written order, resolution or ordinance.
- (4) Upon denial of an application for special exception use approval in whole or in part, a period of one (1) year must elapse prior to the filing of a substantially similar application affecting the same property.

* * *

Section 14. The Village Council hereby amends Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by amending Section 45-19, "Buildings to conform to district regulations," of Article II, "Generally," to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

Sec. 45-19. Buildings and uses to conform to district regulations.

Except as hereinafter provided:

- A. No building shall be erected, reconstructed or structurally altered, nor shall any building or land be used which does not comply with the regulations for the district in which such building or land is located.

- B. No building shall be erected, reconstructed or structurally altered to exceed the height or bulk limits herein established for the district in which such building is located.
- C. The minimum open spaces around a main building as provided for in this ordinance shall not be encroached upon or be considered as open spaces for any other building.
- D. There shall not be more than one (1) main building and its customary accessory building(s) on a lot in the R-1 single-family dwelling district. ~~as authorized by this chapter.~~
- E. The types, location and uses of buildings and land publicly owned and used in the performance of a public function may be permitted in any district, provided such type, location and use is approved by the village council. The village council may limit the length of time of such type, location and use.

Section 15. The Village Council hereby amends Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by amending Section 45-31, "C-A Commercial District," of Article III, "District Regulations," as set forth in Exhibit 1 attached hereto and incorporated herein by reference (additional language is underlined and deleted language is ~~stricken through~~). All properties within the Village currently included within the C-A Commercial Zoning District as of the effective date of this Ordinance are hereby included within the CMU US-1 Mixed Use Zoning District and shall be subject to the regulations set forth in Exhibit 1.

Section 16. The Village Council hereby amends Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by repealing Section 45-31.1, "C-B Commercial District," of Article III, "District Regulations," in its entirety.

Section 17. The Village Council hereby amends Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by repealing Section 45-32, "C-1A Limited Commercial District," of Article III, "District Regulations," in its entirety.

Section 18. The Village Council hereby amends Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by amending Section 45-32.1, "C-C Transitional Commercial District," of Article III, "District Regulations," as set forth in Exhibit 2 attached hereto and incorporated herein by reference (additional language is underlined and deleted language is ~~stricken through~~). All properties within the Village currently included within the C-C Commercial Zoning District as of the effective date of this Ordinance are hereby included within the C-T Transitional Commercial Zoning District and shall be subject to the regulations set forth in Exhibit 2.

Section 19. The Village Council hereby amends Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by amending Section 45-33, "C-1 Neighborhood Commercial District," of Article III, "District Regulations," as set forth in Exhibit 3 attached hereto and incorporated herein by reference (additional language is underlined and deleted language is ~~stricken through~~). All properties within the Village currently included within the C-1 Neighborhood Commercial Zoning District as of the effective date of this Ordinance are hereby

included within the C-S Shopping Commercial Zoning District and shall be subject to the regulations set forth in Exhibit 3.

Section 20. The Village Council hereby amends Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by amending Section 45-34, "C-2 Commercial District," of Article III, "District Regulations," as set forth in Exhibit 4 attached hereto and incorporated herein by reference (additional language is underlined and deleted language is ~~stricken through~~). All properties within the Village currently included within the C-2 Commercial Zoning District as of the effective date of this Ordinance are hereby included within the C-G General Commercial Zoning District and shall be subject to the regulations set forth in Exhibit 4.

Section 21. The Village Council hereby amends Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by amending Section 45-35.1, "Planned Unit Development," of Article III, "District Regulations," as set forth in Exhibit 5 attached hereto and incorporated herein by this reference (additional language is underlined and deleted language is ~~stricken through~~).

Section 22. The Village Council hereby amends Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by amending Section 45-35.2, "C-OS Conservation and Open Space District," of Article III, "District Regulations," to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

Sec. 45-35.2. C-OS conservation and open space district.

- A. *Intent.* The intent of this section is to provide for land uses and activities within land areas designated for the primary purpose of conserving or protecting natural resources of environmental quality.
- B. *Uses permitted.* Within any part of the C-OS conservation and open space district, no building, structure, land or water shall be used, except for one or more of the following uses:
1. Passive recreation.
 2. Flood control.
 3. Protection of quality or quantity of ground water or surface water.
 4. Floodplain management.
 5. Fisheries management.
 6. Protection of vegetative community or wildlife habitats.
 7. Residential and administrative buildings for the protection of the C-OS district.
 8. Single-family dwellings with accessory buildings customarily incident thereto.
- C. ~~a.~~ *Building height regulations.* No main building shall exceed two (2) stories in height and no accessory building more than one (1) story.
- D. ~~b.~~ *Building site area regulations.* The minimum lot or building site for each single-family dwelling shall be one (1) acre of upland area and have at least one (1) lot dimension, width or length, of a minimum of one hundred fifty (150) feet.

- E. ~~e.~~ *Yard space regulation.* No building or portion thereof shall occupy a position fifty (50) feet or less from the upland/wetland boundary of the property.
- F. ~~€.~~ *Coastal zone protection.* The Village of North Palm Beach adopts, by reference, the Palm Beach County Coastal Protection Ordinance No. 90-2 in its entirety.

Section 23. The Village Council hereby amends Appendix C (Chapter 45), “Zoning,” of the Village Code of Ordinances by amending Section 45-35.3, “Northlake Boulevard Overlay Zoning District (NBOZ),” of Article III, “District Regulations,” as set forth in Exhibit 6 attached hereto and incorporated herein by reference (additional language is underlined and deleted language is ~~stricken through~~). All properties included within the C-NB Northlake Boulevard Commercial Zoning District and shall be subject to the regulations set forth in Exhibit 6.

Section 24. The Village Council hereby amends Appendix C (Chapter 45), “Zoning,” of the Village Code of Ordinances by amending Section 45-36, “General Provisions,” of Article III, “District Regulations,” to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

Sec. 45-36. General provisions.

* * *

- A-1. No addition to any building and no structure or object shall be erected, placed or maintained or built to a height which exceeds four (4) stories or sixty (60) feet where any portion of said building or of the property upon which it is located is within five hundred feet of any R-1, single-family dwelling district, except in the C-MU and C-3 zoning districts where the height limits and maximum height in feet are defined in sections 45-31 and 45-34.1.

* * *

- J. Whenever, by this ordinance, off-street parking is required in any commercial or mixed-use district or in any R-3 apartment dwelling district, no such parking facilities shall be hereafter constructed as follows, in addition to any specific requirements of the zoning district: until a permit therefor shall have been issued by the building inspector, and until the plans and specifications therefor are such that:
 - a. Such off-street parking area is designed with appropriate means of vehicular access to a public street or alley. The maximum width of a residential accessway to an off-street parking or other vehicular use area shall be twenty (20) feet for two-way vehicular movement and ten (10) feet for one-way vehicular movement, measured at the narrowest point. For commercial uses, two-way accessways shall be twenty-four (24) feet and may be wider only on county and state roads, subject to approval by county and state transportation officials.

- (i) No more than one (1) two-way accessway shall be permitted for any street frontage up to one hundred (100) lineal feet or no more than two (2) one-way accessways shall be permitted for any street frontage up to one hundred (100) lineal feet, such standards to be applicable to any property under one (1) ownership.
- (ii) Where such ownership involves over one hundred (100) feet of street frontage, one (1) additional two-way or two (2) additional one-way drives may be permitted for each additional one hundred (100) feet of frontage or major fraction thereof, except where restricted by other provisions of this code or by county and state transportation regulations.
- b. Such off-street parking area is designed with appropriate vehicular maneuvering areas. Each required parking space shall measure at least 9 feet by 18 feet.
- c. Such off-street parking area is paved with an asphaltic or concrete surfacing, or other material designed to prevent dust.
- d. Such off-street parking area is so constructed, graded and surfaced as to prevent surface water from draining onto public right-of-way, or on adjoining properties, the outlets for such surface waters to be connected directly or indirectly to storm sewer conduits terminating in existing publicly controlled waterways or in other seepage areas approved by the building department.
- e. Such off-street parking areas shall be used for vehicular traffic only, with no sales, dead storage, repair work, dismantling or servicing of any kind unless expressly permitted by the zoning of the district in question.
- f. If lighting of such areas is to be provided, the plans therefor shall be such that such lighting shall reflect away from any public street and at such an angle as to prevent glare or undue illumination of residential properties in the neighborhood.
- g. Parking lots shall be landscaped as provided in the landscaping regulations in Article VIII (section 45-81 et seq.).
- h. Parking lots shall be designed and improved to facilitate loading and unloading. There shall be adequate space for standing, loading and unloading services to avoid undue interference with public use of streets or alleys.

* * *

M. *Building height regulations.*

- (1) Within the area of the Village of North Palm Beach which lies north of the Intracoastal Waterway and west of U.S. Highway No. 1, no building or structure shall exceed sixteen (16) stories or one hundred sixty (160) feet.
- (2) Within the area of the Village of North Palm Beach which lies north of the Intracoastal Waterway and east of U.S. Highway No. 1, no building or structure shall exceed twenty-two (22) stories or two hundred twenty (220) feet.
- (3) Within the area of the Village of North Palm Beach which lies south of the Intracoastal Waterway and east of U.S. Highway No. 1, no building or structure shall exceed four (4) stories or forty (40) feet, except in the C-MU zoning district where the height limits are defined in section 45-31.
- (4) Within the area of the Village of North Palm Beach which lies south and west of the Intracoastal Waterway and west of U.S. Highway No. 1, no building or structure shall exceed four (4) stories or forty (40) feet, except in the C-MU and C-3 zoning districts where the height limits are defined in sections 45-31 and 45-34.1.

* * *

Q. *Outdoor seating.*

- (1) *Applicability.* Outdoor seating shall be permitted as an accessory use to a building in which a food service establishment is operated, provided that:
 - a. The outdoor seating area is adjacent to that portion of the food service establishment which is inside the building.
 - b. The outdoor seating is located on property which is either owned or leased by the adjacent food service establishment or the landlord of such food service establishment. (See exceptions in subsection (6).)
 - c. The outdoor seating can be accommodated without impeding the access of the general public, including persons with disabilities, to the portion of the food service establishment which is located inside the building, or to any other commercial business or other use.
 - d. The outdoor seating can be accommodated without creating a need for additional parking spaces which could not be provided on the same site as the building for which the outdoor seating would be an accessory use or would create a non-conforming status for existing parking provided for such building. (See exceptions in subsection (6).)
 - e. No outdoor seating shall be permitted for adult entertainment establishments.

- (2) *Permitting process.* An applicant for approval of outdoor seating shall include the proposed outdoor seating as part of an overall application for a building permit and/or site plan and appearance approval certificate of appropriateness or shall seek amendment of an existing building permit and/or site plan and appearance approval certificate of appropriateness to allow for outdoor seating, pursuant to the applicable provisions of this Code. Every application involving outdoor seating shall include the following, in addition to and not in place of anything else which may otherwise be required by any other provision of this Code:
- a. A site plan, drawn to scale, which shows at least the building for which outdoor seating will be an accessory use; the location of the food service establishment which will use the outdoor seating; the location of the outdoor seating and all related fencing screening, or dividing materials; the location of any sidewalks or other pedestrian walkways or passageways which are adjacent to or will be affected by the outdoor seating; and the location of all existing or additional parking for such building.
 - b. A copy of the written consent of any person or business who other than the applicant owns or leases any property, including any sidewalk or other public passageway, upon [which] the outdoor seating would be located.
 - c. Photographs, renderings, or samples showing the style and color of all furnishings, fencing, screening, or dividing material to be used for or in conjunction with the outdoor seating.
- (3) *Conditions of outdoor seating.* Outdoor seating shall comply at all times with the following conditions:
- a. Outdoor seating shall be arranged, when in use, in a manner that allows a pedestrian walkway in compliance with applicable accessibility, building, codes and fire codes.
 - b. Outdoor seating located on a pedestrian walkway which provides access to more than one (1) occupant of a building, as in a shopping center, shall be arranged, when in use, in a manner that maintains a passage of not less than five (5) feet in width.
 - c. Outdoor seating of an applicant shall not be located on any sidewalk, passageway, or other property adjacent to any other business.
 - d. Outdoor seating shall not occupy any area designated for parking. (See exceptions in subsection (6).)
 - e. Outdoor seating which is used for the service and sale of food or beverages of any kind within the outdoor seating area, shall be physically separated and visually distinct from any immediately

adjacent public passageway or walkway by means of approved fencing or screening material which is not less than two (2) feet in height, by means of one (1) or more planter boxes and other plant container, by means of some other approved divider, or any combination of such means, but not including tables, chairs or other seating.

- f. Outdoor seating areas may only contain tables, chairs, umbrellas and/or awnings and required fencing or screening materials. All such equipment shall be compatible in color and style with the exterior of the building and shall not contain or have affixed to it any sign, lettering or advertising of any kind.
- g. Outdoor seating shall be maintained in a secure manner, whenever the food service establishment is closed to the public.
- h. Establishments with outdoor seating with food and beverage service shall meet all health code and other applicable code requirements of restaurants.
- i. Any permanent or temporary structures associated with outdoor seating, including, but not limited to, awnings and covered roofs shall not encroach into the required building setback areas. Tables, chairs, umbrellas, fencing, screening and dividing materials shall not be located closer to the property line than two-thirds (2/3) of the required front, side or rear building setback. (See exceptions in subsection (6))

(4) *Limitations on use.* Except for outdoor seating located in an inner court:

- a. All sales and service of food and beverages in an outdoor seating area are prohibited between the hours of 10:30 p.m. and 7:00 a.m., Sunday through Thursday, and between the hours of 11:00 p.m. and 7:00 a.m., Friday through Saturday.
- b. Outdoor seating areas shall be in compliance with the village's noise regulations.

(5) *General requirements.* Outdoor seating which increases the total number of seats available at a food service establishment shall be considered an expansion of use. Such outdoor seating shall be included in any calculation of the total number of seats provided by the food service establishment but not limited to parking, restroom facilities and business taxes.

(6) *Special requirements for C-MU and C-3 zoning districts.* In the C-MU and C-3 zoning districts only, the preceding requirements for outdoor seating are modified as follows:

- a. Outdoor seating may be provided on sidewalks that have been constructed on sidewalk easements that were required by this code as long as this seating does not unduly restrict pedestrian movement.

Outdoor seating may not be provided on sidewalks within the right-of-way of US Highway 1, Yacht Club Drive, Anchorage Drive, Lighthouse Drive, Ebbitide Drive, or Northlake Boulevard.

- b. Outdoor seating may be provided within build-to zones required by this code.
- c. Outdoor seating may be provided on an area designated for parking and/or loading without providing additional parking spaces. However, permission for such outdoor seating would be on a provisional basis and would be subject to revocation as follows:
 - i. Permission may be revoked by the community development director if there is evidence that the permission is contributing to spillover parking on nearby properties.
 - ii. Permission would be automatically revoked if the code enforcement special magistrate issues an order confirming a violation of a parking-related provision of this code.

Section 25. The Village Council hereby amends Appendix C (Chapter 45), “Zoning,” of the Village Code of Ordinances by amending Section 45-38, “I-1 Light Industrial District,” of Article III, “District Regulations,” to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

Sec. 45-38. I-1 light industrial district.

* * *

D. *Supplemental use regulations for select permitted or special exception uses.* Permitted or special exception uses in the I-1 district shall be subject to the following conditions.

* * *

12. Dog daycare:

* * *

- d. *Outdoor runs/dog exercise areas:* If used, outdoor runs or ~~animal~~ dog exercise areas shall be located a minimum of 300 feet from a residential use or zoning district or shall be fenced utilizing a sound-absorbing material on any side which is adjacent to or separated only by street from any residential use or zoning district to contain the sound as required by chapter 19, article VI of this code. Such outdoor runs or dog exercise areas ~~shall~~ be hard surfaced or grassed and if hard surfaced, shall have with drains provided every ten feet and be connected to a central or individual sanitary facility approved by Seacoast Utility Authority or the Palm

Beach County Health Department. Grassed outdoor runs and dog exercise areas shall be maintained by removing dog waste daily. A minimum six-foot high ~~chain-link~~ fence shall be required around outdoor runs and dog exercise areas. In addition, where chain-link fencing is used, a continuous solid opaque hedge a minimum of four feet at installation shall be provided around the outdoor run area or dog exercise area. Animals shall not be left overnight in outdoor runs or dog exercise areas.

* * *

15. Kennel, commercial:

- a. *Limitations of use:* A commercial kennel shall be limited to the training, boarding and grooming of dogs and cats.
- b. *Outdoor runs:* Outdoor runs shall comply with the requirements of Section 45-38(D)(~~12~~ 11)d above.

* * *

22. Veterinary clinic: Outdoor runs shall comply with the requirements of Section 45-38(D)(~~12~~ 11)d above.

Section 26. The Village Council hereby amends Appendix C (Chapter 45), “Zoning,” of the Village Code of Ordinances by amending Article VI, “Amendments – Fees; Waiting Periods,” to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

ARTICLE VI. ~~AMENDMENTS – FEES; WAITING PERIODS~~ REZONINGS; VARIANCES; WAIVERS

Sec. 45-49. Applications for rezoning, etc.

- (1) All applications for rezoning ~~and all applications to amend, supplement, modify or repeal the boundaries, districts, regulations or restrictions established by this chapter~~ shall be done by application to the ~~planning commission~~ of the village. The application to the ~~planning commission~~ may be made initiated by any property owners to rezone their own property or by the village manager, ~~tenant or by a governmental office, department, board or bureau.~~ Such applications shall be filed with the community development department of the village, which shall transmit the same, together with all the ~~plans, specifications, application blank and other papers pertaining to the application, to the planning commission.~~ Any such application, except by the village manager, ~~a governmental agency,~~ must be accompanied by the filing fee established in the master fee schedule adopted annually as part of the village budget together with a deposit of the estimated cost of the village processing the application. Upon the village determining the actual costs, applicants shall pay the balance, if any, in full of such costs including

advertising prior to final consideration of the application. If the deposit exceeds actual costs, the balance shall be refunded to applicant.

- (2) All applications ~~to the planning commission~~ concerning rezoning shall be upon forms to be supplied by the community development department.
- (3) Whenever, after review, investigation and hearing, any application for a change of district classification has been denied, an application for a like change cannot be reinstated for a period of at least one (1) year after said denial.
- (4) Public notice of all hearings shall be provided as required by section 21-3 of the village Code.

Sec. 45-50. ~~Application for Variances.~~

- (1) All applications for variances to regulations or restrictions established by this ordinance shall be ~~done~~ initiated by application to ~~the board of adjustment of the village.~~ The application ~~to the board of adjustment~~ may be made by any property owner or tenant or by a governmental office, department, board or bureau. ~~Such applications shall be~~ and filed with the community development ~~department.~~ director of the village, who shall transmit the same, together with all the plans, specifications, application blank and other papers pertaining to the application, to the board of adjustment. Any such application, except by a governmental agency, must be accompanied by the filing fee established in the master fee schedule adopted annually as part of the village budget.
- (2) All applications ~~to the board of adjustment~~ concerning variances shall be upon forms to be supplied by the community development department.
- (3) Criteria for decisions on variance applications are provided in section 21-21 of the village code.
- (4) ~~(3)~~ Public notice of all hearings shall be provided as required by section 21-3 of the village code.

Sec. 45-51. Waivers.

- (1) In the C-MU and C-NB zoning districts, waivers may be requested from certain regulations in this code. An applicant requesting a waiver shall demonstrate that the waiver provides a public benefit, including, by way of example, high-quality architectural design, pedestrian amenities, not cost dedication of rights-of-way, construction of public parking, public art or other improvements adjacent to the property, preservation of environmentally-sensitive lands, provision of public parks and/or open spaces, or mixed uses which reduce impacts on village services.
- (2) An application for such waiver may be made by any property owner or tenant or by a governmental office, department, board or bureau. Such applications

shall be filed with the community development director of the village, using forms supplied by the director, who shall transmit the same, together with all the plans, specifications, application materials, and other papers pertaining to the application, to the planning commission. The applicant shall identify each waiver request in writing as part of the application, fully explaining the nature of the request, the extent to which it departs from a standard zoning regulation, and the basis for which it is sought.

- (3) The planning commission will hold a public hearing in conjunction with the site plan and appearance review hearing for the subject property (see sections 6-30–6-60). When evaluating waiver requests, the planning commission will consider the following factors and any additional criteria set forth in the relevant zoning district:
- a. The extent to which the alternate standard proposed by the applicant differs from the code’s standard that would be waived;
 - b. Whether the granting of the waiver will lead to innovative design in which other minimum standards are exceeded;
 - c. Whether the request clearly demonstrates the public benefits to be derived;
 - d. Whether the request furthers the goals of the village master plan, and exemplifies the architectural, building, and site design techniques desired within the Village’s Appearance Plan;
 - e. Whether the requested waiver can be granted in the zoning district;
 - f. Any unusual circumstances regarding the property or immediate area, including the location of power lines, specimen trees, or shade trees;
 - g. The effect of approving or denying the waiver on the development project and on the surrounding area;
 - h. Consistency with the comprehensive plan;
 - i. Recommendations of village staff;
 - j. Testimony from the applicant; and
 - h. Testimony from the public.

- (4) At the end of the public hearing, the planning commission will make a decision on each requested waiver. Approval is contingent on the planning commission making these findings and any additional findings set forth in the relevant zoning district:
 - a. The alternate standard proposed by the applicant is acceptable for the specific site and building;
 - b. The proposed waiver does not detract from the design principles supporting these zoning districts and the broader intent of this code;
 - c. The proposed waiver will not be injurious to surrounding properties or nearby neighborhoods; and
 - d. The proposed waiver is not inconsistent with the Comprehensive Plan.
- (5) The planning commission's action on waivers will be considered a recommendation to the village council instead of a decision if a special exception was requested along with one or more waivers, or if a waiver was requested for an extra story pursuant to 45-31.E.4, or if the concurrent site plan and appearance decision is appealed in accordance with section 6-35. The village council will make a decision on such waivers at the same time that a decision is made on all other aspects of the application.
- (6) The applicant or any interested party may file an appeal to the village council on any decision on waivers. Such an appeal will also function as an appeal of the site plan and appearance application. The appeal shall be filed or made within ten (10) days after decision of the planning commission on forms provided by the village. Appeals shall set forth the alleged inconsistency or nonconformity with procedures, criteria, or standards set forth in this code. The village council shall decide an appeal within thirty (30) days of the filing of such appeal unless an extension of time is consented to by the applicant, and such filing shall suspend any building permit issued pursuant to the ruling of the planning commission until the village council has decided the appeal. The village council may review any decision of the planning commission and their disposition of the matter shall be final.
- (7) Public notice of all waiver hearings shall be provided as required by section 21-3 of this code.

Section 27. The Village Council hereby amends Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by amending Article VII, "Nonconforming Uses of Land and Structures," to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

Sec. 45-60. Intent.

- (1) Within the districts established by this ordinance, or amendments that may later be adopted, there exist lots, structures, uses of land and structures and

characteristics of use which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments.

- (2) Except as explicitly provided in this article, it is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their continuation. Such nonconformities uses are declared by this ordinance to be incompatible with ~~permitted uses~~ in the district involved. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Sec. 45-61. - Extension and enlargement of nonconforming uses.

- (1) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved. If an existing use was legally permitted on its site prior to changes in the C-MU or C-NB zoning districts in 2020 but is not listed as a permitted use in the new district, that existing use will continue to be deemed a permitted use and will not be subject to the restrictions in this paragraph.
- (2) To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

Sec. 45-62. Nonconforming lots of record.

- (1) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

Variance of area, width, or yard requirements shall be obtained only through action of the board of adjustment.

- (2) If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in ~~angle~~ [single] ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements in this ordinance.

Sec. 45-63. Nonconforming uses of land.

Where, at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, and where such use involves no individual structure with a replacement cost exceeding one thousand dollars (\$1,000.00), such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance; unless such use is changed to a use permitted in the district in which such use is located;
- (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance;
- (3) If any such nonconforming use of land ceases for any reason for a period of more than ninety (90) consecutive days, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located;
- (4) No additional structure which does not conform to the requirements of this ordinance shall be erected in connection with such nonconforming use of land.

Sec. 45-64. - Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful subject to the following provisions:

- (1) No such structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;
- (2) Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, as determined by the village engineer or village building official, it shall not be reconstructed except in conformity with the provisions of this ordinance;
- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.
- (4) However, if an existing structure was legally permitted on its site prior to changes in the C-MU or C-NB zoning districts in 2020 but could not be built under the standards in the new district, that existing structure will continue to be deemed a lawful structure and will not be subject to the restrictions in paragraphs (1) and (2). Such structure may be expanded laterally and/or vertically without complying with all new requirements for building frontages, build-to zones, and parking lot setbacks, provided the expansion brings the structure considerably closer to the 2020 requirements than the existing structure.

Sec. 45-65. Nonconforming uses of structures or of structures and premises in combination.

- (1) If a lawful use involving individual structures with a replacement cost of one thousand dollars (\$1,000.00) or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - (a) No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
 - (b) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building;
 - (c) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed;

- (d) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three-year period (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located;
 - (e) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty (50) percent of the replacement cost at time of destruction.
- (2) If an existing use of a structure was legally permitted on its site prior to changes in the C-MU, C-3, or C-NB zoning districts in 2020 but is not listed as a permitted use in the new district, that existing use will continue to be deemed a permitted use and will not be subject to the restrictions in section 45-65(1)(a)-(c) and 45-65(1)e. Notwithstanding the foregoing, these uses will not be allowed to continue if discontinued or abandoned as defined by 45-65(1)(d).
- (3)(2) Nonconformities not involving the use of a principal structure, e.g., open storage, building supplies, vehicle, mobile home, implement and machinery storage, signs, billboards, junkyards, commercial animal yards and the like, shall be discontinued within two (2) years of the effective date of this ordinance or amendment.

* * *

Section 28. The Village Council hereby amends Appendix C (Chapter 45), “Zoning,” of the Village Code of Ordinances by adopting a new Article VIII, “Landscaping,” as set forth in Exhibit 7 attached hereto and incorporated herein.

Section 29. The provisions of this Ordinance shall become and be made a part of the Code of the Village of North Palm Beach, Florida. All cross-references to the names of zoning districts are hereby updated, including but not limited to those in Sections 45-20, 45-21, and 45-36, and any other sections that referred to the prior names for the zoning districts as follows:

- A. All references to the C-1A, C1A, C-B or CB Zoning Districts shall be deleted.
- B. All references to the C-A or CA Zoning District shall be changed to the C-MU Zoning District.
- C. All references to the C-C or CC Zoning District shall be changed to the C-T Zoning District.
- D. All references to the C-1 or C1 Zoning District shall be changed to the C-S Zoning District.
- E. All references to the C-2 or C2 Zoning District shall be changed to the C-G zoning district.

F. All references to the C-OS or COS zoning district shall be changed to the OS Zoning District.

G. All references to the NBOZ Overlay Zoning District shall be changed to the C-NB Zoning District.

Section 30. If any section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

Section 31. All ordinances or parts of ordinances and resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 32. This Ordinance shall take effect upon the effective date of Ordinance No. 2020-05.

PLACED ON FIRST READING THIS 13TH DAY OF AUGUST, 2020.

PLACED ON SECOND, FINAL READING AND PASSED THIS 24TH DAY OF SEPTEMBER, 2020.

(Village Seal)



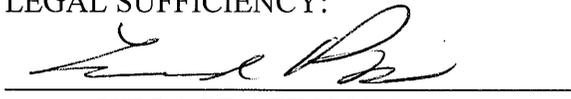
MAYOR

ATTEST:



VILLAGE CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



VILLAGE ATTORNEY