

**TAB 8**

**Zoning Code Revision  
Point Paper**

**Ordinance 09-999  
Recreation and Amusement Services  
Revised September 23, 2009**

**Problem:**

Based on several inquiries recently, it has been determined that indoor amusement services are currently not permitted by the City Zoning Code.

**Background:**

During the past few weeks, the City staff has been approached by two business owners interested in opening an indoor amusement business within the City. Based on our review of the current land development regulations, it does not appear that *Section 4.2 Schedule of Permitted and Conditional Uses by District* chart permits this use. The Zoning Code does, however, contain a definition for Recreation and Amusement, which states:

*“Recreation and amusement services: A commercial facility providing recreational activities, including but not limited to, public swimming pools, public tennis clubs, public gymnasiums, amusement arcades, discotheques, bowling alleys, shuffleboard courts, baseball hitting ranges, miniature golf, golf driving ranges, billiards or pool halls, dance schools or classes, skating rinks, zoos, and indoor movie theaters.”*

If the City wishes to permit such uses, adding the category to the schedule in an appropriate location would resolve the matter.

**Original Recommendation:**

After consideration, staff recommends that the use be added to the CG category as a “conditional use” and to the CHI category as a “permitted use”.

The reason for the distinction is there may be some locations where the City Commission may wish to regulate hours of operation, parking, or the like within General Commercial (CG) district, classifying the use as “conditional” would allow the Commission to consider these uses on a case-by-case basis as a means to incur compatibility with surrounding uses.

**Commission Direction:**

At the City Commission Workshop and Regular Meeting held on September 14, 2009, the Commission reviewed and discussed this proposed Ordinance and directed staff to proceed with an ordinance that would require all Recreation and Amusement Services be Conditional Uses.

**Planning & Zoning Board Recommendation:**

At the Regular P&Z Board Meeting of September 21, 2009, the Commission reviewed the Staff Report, discussed the direction provided by the City Commission and heard public comment concerning the proposed Ordinance.

The logic behind the motion is that Recreation and Amusement Uses proposed in areas that front on a principal arterial and take primary access from that roadway and are not adjacent to residential zoning or residential land uses are located within an enclosed building and have hours of operation between 8:00 a.m. and 12:00 a.m. (midnight) would be Permitted Uses in both Zoning Categories.

In any other case, the proposed Recreation and Amusement Services would be a Conditional Use subject to review by the P&Z Board and City Commission.

**Planning & Zoning Board Motion:**

**Motion:**

Mr. Ugarte moved and Mr. Moquin seconded the motion to recommend approval to City Commission Ordinance Number 09-999 as an Administrative Permit with the following conditions.

- (a)** All sites for Recreation and Amusement Services shall front on a principal arterial roadway and shall utilize such arterial roadway as the primary access for the site.
- (b)** Recreation and Amusement Services shall not be permitted adjacent to residentially uses or residentially zoned land. If residentially zoned or residentially used such site has to receive of a conditional use approval by the City Commission.
- (c)** Hours of operation for Recreation and Amusement services shall be limited to the hours between 8:00 a.m. and 12:00 am (midnight)
- (d)** Recreation and Amusement Services be totally within an enclosed building. If the principal operation is proposed outdoors, i.e., zoos, amusement parks, miniature golf, golf driving ranges, it shall not be permitted adjacent to residentially zoned or residentially used land unless such site has received approval of a conditional use by the City Commission.

MOTION CARRIED UNANIMOUSLY

This recommendation from the P&Z Board is provided for your consideration.

**ORDINANCE 09-999**

**AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING CODE OF ORDINANCES, ZONING CODE, TO ADD RECREATION AND AMUSEMENT SERVICES TO THE SCHEDULE OF PERMITTED AND CONDITIONAL USES; PROVIDING STANDARDS FOR USE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions and render municipal services; and,

**WHEREAS**, pursuant to the referenced provision of the Florida Constitution, a city may exercise any power for municipal purposes except as otherwise provided by law; and,

**WHEREAS**, Chapter 166, Florida Statutes, the "Municipal Home Rule Powers Act," implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof; and,

**WHEREAS**, within the above-referenced grant of powers, the City of Palmetto (the "City") has the authority to regulate land development and the use of property within the City for the protection of the public health, safety and welfare; and

**WHEREAS**, the City desires to allow for certain commercial recreational uses to be developed and operated within certain commercial zoning districts, and under certain conditions; and

**WHEREAS**, consistent with the findings stated above, the City Commission has determined that adoption of this ordinance is in the best interest of the public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PALMETTO, FLORIDA, as follows:**

**Section 1.**     **Findings of Fact.**     The above “WHEREAS” clauses are adopted herein as findings of fact.

**Section 2.**     **Revision Language.**

A.     The definition of “Recreation and Amusement Services”, found in Appendix B Zoning Code, Article III Definitions, Section 3.2 Definitions of Terms, of the City of Palmetto Code of Ordinances, is hereby amended to read in its entirety as follows:

*Recreation and amusement services:* A commercial facility providing recreational activities, including, but not limited to, swimming pools, tennis clubs, gymnasiums, amusement arcades, discotheques, bowling alleys, bingo halls, shuffleboard courts, baseball hitting ranges, miniature golf, golf driving ranges, billiards or pool halls, dance schools or classes, skating rinks, zoos, indoor movie theaters, and other similar recreation and amusement uses.

B.     Appendix B, Zoning Code, Article IV Schedule of District Regulations, Section 4.2 Schedule of permitted and conditional uses by district, of the City of Palmetto Code of Ordinances, is hereby amended to add the Recreation and Amusement Services to the list of Miscellaneous Uses and add Recreation and Amusement Services as a conditional use only in the Commercial General (CG) and Commercial Heavy Industrial (CHI) zoning categories.

C.     Appendix B Zoning Code, Article VI Supplemental Regulations, of the City of Palmetto Code of Ordinances is hereby amended to add Section 6.22 to read in its entirety as follows:

**Section 6.22. Recreation and Amusement Services.** All Recreation and Amusement Services within the City shall comply with the following requirements, in addition to requirements that may otherwise be provided in the Code:

- (1) All sites for recreation and amusement services uses shall front on a principal arterial roadway, and shall utilize such arterial roadway as the primary access for the site.
- (2) All recreation and amusement services uses shall provide a 6-foot perimeter wall or opaque fence for all portions of the site which are adjacent to residential uses or residentially-zoned property.
- (3) Hours of operation for recreation and amusement services uses shall be limited to the hours between 8:00 a.m. and 12:00 a.m.

**Section 3. Repeal of Inconsistent Ordinances.** This Ordinance hereby repeals all ordinances, or parts thereof, in conflict herewith to the extent of such conflict.

**Section 4. Severability.** If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 5. Effective Date.** This Ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor or, if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes.

FIRST READING	September 14, 2009
PUBLICATION DATE	August 28, 2009 and September 21, 2009
SECOND READING	September 28, 2009

**PASSED AND DULY ADOPTED, BY THE CITY COMMISSION OF THE  
CITY OF PALMETTO, FLORIDA,** with a quorum present and voting, in regular  
session assembled, this 28th day of September, 2009.

By: \_\_\_\_\_

Shirley Groover-Bryant, Mayor

ATTEST:

By: \_\_\_\_\_

James R. Freeman, City Clerk