



TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE -
SUBJECT TO
REVISION

ORDINANCES, RULES AND STANDARDS COMMITTEE MEETING

AGENDA

TOWN HALL
COUNCIL CHAMBERS - SECOND FLOOR
360 SOUTH COUNTY ROAD

Thursday, February 2, 2017
9:30AM

- I. CALL TO ORDER AND ROLL CALL
Bobbie Lindsay, Chair
Danielle H. Moore, Committee Member
- II. APPROVAL OF AGENDA
- III. COMMUNICATIONS FROM CITIZENS
- IV. REGULAR AGENDA
 - A. Old Business
 - 1. Final Report Regarding Regulation Limitations for Shark Fishing (*Benjamin Alma, Code Enforcement Manager*)
 - 2. Potential Code Change to Address Advertising Signage on Vehicles (*Benjamin Alma, Code Enforcement Manager*)
 - 3. Review of Drone Ordinance for Conflicts with FAA Regulations Requirements (*John C. Randolph, Town Attorney; Jay Boodheshwar, Deputy Town Manager*)
 - B. New Business
 - 1. Potential Code Change to Modify Dates of Construction Season (*Jay Boodheshwar, Deputy Town Manager*)

V. ANY OTHER MATTERS

VI. ADJOURNMENT

PLEASE TAKE NOTE:

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

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

Memorandum

To: Bobbie Lindsay, Chair, Ordinances, Rules and Standards Committee
Danielle H. Moore, Committee Member, Ordinances, Rules and Standards Committee

From: Jay Boodheshwar, Deputy Town Manager

Cc: Thomas G. Bradford, Town Manager; Department Directors; Veronica Close, Assistant Director of Planning, Building and Zoning; Nicholas Caristo, Police Captain; Bill Bucklew, Building Official; Paul Castro, Zoning Administrator; Ben Alma, Code Enforcement Manager; Susan Owens, Town Clerk; Kathleen Dominguez, Deputy Town Clerk; John C. Randolph, Town Attorney

Date: 1/30/2017

Re: Agenda Items for the February 2, 2017, ORS Meeting

This memorandum and its attachments serve as the backup material associated with the agenda for your ORS meeting on February 2, 2017, at 9:30am. Below is the list of agenda items and related exhibits, which provides background information for each matter.

Old Business

1. **Final Report Regarding Regulation Limitations for Shark Fishing** (*Benjamin Alma, Code Enforcement Manager*)

Code Enforcement Manager, Ben Alma, will provide a verbal report to supplement the cover memo in the back-up, relative to the State's preemption of any potential shark fishing regulations in conflict with the Florida Administrative Code. Please see Exhibit A for more information on this matter.

2. **Potential Code Change to Address Advertising Signage on Vehicles** (*Benjamin Alma, Code Enforcement Manager*)

Code Enforcement Manager, Ben Alma, will present his findings, relative to what can and can't be done to regulate the use of non-commercial vehicles for advertising businesses. Please see Exhibit B for details regarding this item.

3. **Review of Drone Ordinance for Conflicts with FAA Regulations Requirements** (*John C. Randolph, Town Attorney; Jay Boodheshwar, Deputy Town Manager*)

Town Attorney, Skip Randolph, continues his research and communication with the FAA, relative to what actions the Town can take to update its Drones ordinance without conflicting with the FAA regulations. Please see Exhibit C for a status report on this issue.

New Business

1. **Potential Code Change to Modify Dates of Construction Season** (*Jay Boodheshwar, Deputy Town Manager*)

In response to resident requests to evaluate the merits of shortening the construction season and Town Council's authorization for ORS to study the matter, staff will present the current provisions of the Town Code, as well as pros and cons for making changes. Please see Exhibit D for details regarding this item.

Attachments

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: February 02, 2017

To: Ordinances, Rules and Standards Committee

Via: Jay Boodheshwar, Deputy Town Manager

From: Benjamin Alma, Code Enforcement Manager

Re: Request the Ordinances, Rules and Standards (ORS) Committee to Review a Request to Prohibit Shark Fishing or Chumming Within Three Hundred Feet (300') North and South of the Municipal Beach and Beach Access Points.

Date: January 30, 2017

STAFF RECOMMENDATION

Staff recommends that the ORS Committee review the report below and provide direction to staff, as necessary.

GENERAL INFORMATION

The issue of shark fishing off Palm Beach's shores has been the subject of discussion at ORS Committee meetings for the last couple of years. In fact, the Town Code was amended over a year ago to prohibit camping and overnight sleep on beaches to help mitigate against the growing use of Town shoreline for overnight fishing.

Although overnight shark fishing activities were diminishing concerns related to this matter continued and at the September 8, 2016, ORS Committee meeting, staff was directed to prepare an ordinance modeled after the City of Delray Beach's code, relative to "Prohibiting Shark Fishing or Chumming Within Three Hundred Feet (300') North and South of the Municipal Beach and Beach Access Points". Subsequent to ORS' request, an ordinance was introduced to Town Council for consideration but was tabled indefinitely and remanded to ORS after the Town received a communication regarding potential conflicts with the State of Florida's Fish and Wildlife Commission (FWC) regulations.

Since then, staff has been in contact with Rob Pullen, Assistant Counsel for the FWC, and he has informed us that the ordinance that was considered and tabled by Town Council would have been preempted by State law if adopted. We also learned that a similar ordinance Delray Beach previously adopted was indeed in conflict with FWC rules and should not have been used as a model for creating ours. Therefore, after consulting with Town Attorney Skip Randolph, staff recommends that ORS formally table this item indefinitely.

cc: Kirk W. Blouin, Director of Public Safety

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: February 02, 2017

To: Ordinances, Rules and Standards Committee

Via: Jay Boodheshwar, Deputy Town Manager

From: Benjamin Alma, Code Enforcement Manger

Re: Request the Ordinances, Rules and Standards (ORS) Committee to amend Town Ordinance 106-293, Prohibited location section (h) Other areas.

Date: February 02, 2017

STAFF RECOMMENDATION

Staff requests consideration from the ORS Committee to recommend that Town Council adopt an ordinance prohibiting the use of signs on non-commercial vehicles (including trailers).

. Specifically, panels of any material that are added to any portion of a vehicle which extends from, or adds to, the original vehicle body. This provision is not to be construed as prohibiting the identification of a firm or its principal products or government vehicles operating during the normal hours of business.

GENERAL INFORMATION

At the December 08, 2016, staff made ORS aware of a possible need to prepare an ordinance to address the use of signs on vehicles due to an incident that occurred over a span of several days earlier that summer. Said incident involved a privately owned and non-commercial pick-up truck displaying large advertising signs, mounted on its bed, parked along the 300 block of South Ocean Blvd. (Exhibit A). These signs were displayed in an effort to advertise the owner of this vehicles business, which at the time was located in the Town of Palm Beach.

Currently there is no provision in the Town's Code of Ordinances prohibiting privately owned vehicle signs (including privately registered trailers), when they are used for advertising purposes at a given location(s) or site(s). In ORS' consideration of an ordinance to regulate the use of vehicles for advertising purposed, it is important to define the difference between privately and commercially registered vehicles, (Exhibit B).

In researching municipalities which have such ordinances, the City of Port Saint Lucie has an Ordinances under Section 106-293, Prohibited locations, (Exhibit C). In addition to creating an ordinance, a fine should be established for violations and added to Ordinance 106-293, Prohibited location section (h) Other areas.

If approved, staff will work with the Town Attorney to prepare an ordinance to amend the Town Code to address vehicle signs.

REVIEW BY TOWN ATTORNEY

cc: Kirk W. Blouin, Director of Public Safety
John Page, Director of Planning, Zoning and Building

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The Department of Highway Safety and Motor Vehicles.**2016 2016 Florida Statutes, Chapter 320.01**

“Commercial motor vehicle” means any vehicle which is not owned or operated by a governmental entity, which uses special fuel or motor fuel on the public highways, and which has a gross vehicle weight of 26,001 pounds or more, or has three or more axles regardless of weight, or is used in combination when the weight of such combination exceeds 26,001 pounds gross vehicle weight. A vehicle that occasionally transports personal property to and from a closed-course motorsport facility, as defined in s. 549.09(1)(a), is not a commercial motor vehicle if the use is not for profit and corporate sponsorship is not involved. As used in this subsection, the term “corporate sponsorship” means a payment, donation, gratuity, in-kind service, or other benefit provided to or derived by a person in relation to the underlying activity, other than the display of product or corporate names, logos, or other graphic information on the property being transported.

Sec. 155.05. - Prohibited Signs.

The following signs are prohibited on the effective date of this chapter. Such signs have been found to violate the purpose, intent, and specific provisions of this chapter.

- (A) A sign which falsely simulates emergency vehicles, traffic control devices, or official public signs.
- (B) Snipe sign, "stick-in" sign in landscaping, sandwich sign and add-on sign unless specifically allowed under another subsection in this chapter.
- (C) A sign found by the Building Department to be structurally unsafe or a hazard to public safety or welfare, including signs creating a fire hazard.
- (D) A sign obstructing any motorist's view of a street or intersection.
- (E) Any abandoned sign.
- (F) A series of two (2) or more freestanding signs which must be read together to obtain a single message.
- (G) Flashing sign except for public signs, changeable copy signs and variable message boards permitted in this chapter.
- (H) Animated sign, to include any moveable attachments such as, but not limited to, balloons, discs, streamers and any other similar action type eye catchers. This shall not include public signs, changeable copy signs, or variable message boards.
- (I) A sign which obstructs any fire escape, any window, or door or other opening used as a means of ingress or egress so as to prevent free passage of persons.
- (J) Any sign which interferes with openings required for ventilation.
- (K) Trailer sign.
- (L) Off-premises sign, except as provided for in subsection 155.07.
- (M) Any temporary sign in violation of this chapter.
- (N) Banners and flags that do not meet the special requirements of this chapter.
- (O) Vehicle signs when used for advertising purposes at a given location or site in addition to or in lieu of a sign permitted under this chapter. Specifically, panels of any material added to any portion of a vehicle which extends from, attaches to or adds to the original vehicle body. Painted and magnetic signs applied flush to commercial vehicles which identify the business owner or lessee are allowed and exempt.
- (P) Roof Sign (excepting allowable mansard roof signs and religious symbols approved as an integral part of the site plan for a steeple or other similar structural component of a place of worship).
- (Q) Projecting sign. (See subsection 155.08 for exceptions to this type sign).
- (R) Any sign placed without a permit after the effective date of the ordinance from which this chapter is derived when a permit is required.
- (S) A sign in violation of subsection 155.06. If a sign is prohibited and the sign is a type that can be brought into conformance with this chapter, the owner or lessee of the sign can elect to bring the sign into conformity rather than remove the sign.
- (T) Portable sign, except as specifically authorized in this chapter.
- (U) Portable toilet or trash receptacle signs advertising any business other than the provider of the toilet or receptacle.
- (V) Any sign placed or erected on or over any city property road right-of-way or in or on the median, except as specifically authorized in this chapter.
- (W) A sign that displays any lewd, lascivious, obscene, indecent, or immoral written or graphic message.
- (X) Bench sign.
- (Y) Tethered inflatable sign (Balloon) except in conjunction with a special event permit.
- (Z) Any sign placed in the required site landscaping areas or attached to any tree, shrub or plantings advertising any business, product or service located on the site.
- (AA) Signs attached to or placed upon any utility pole, street light, sidewalk curb, fire hydrant, bridge or any other public property, including the swale area, median or public right-of-way, unless specifically authorized herein.
- (BB) Posters or other advertising signs placed on buildings, added to freestanding signs or placed on poles, dumpsters, gas pumps and islands or stacks of product stored outside buildings. (Not permitted by code.)
- (CC) Permanent "come-on" sign (Sale Today!).
- (DD) Billboards (except as shown in subsection 155.08 of the sign code).

(Ord. No. 10-08, § 1(Exh. A), 3-8-10; Ord. No. 12-14, § 1, 4-9-12; Ord. No. 15-81, § 1, 11-9-15)

JONESFOSTER

JOHNSTON & STUBBS, P.A.

Memo

To: Jay Boodheshwar
From: John C. Randolph
Date: January 27, 2017
Subject: Drone Ordinance

Jay,

I regret that I cannot be in attendance at the ORS meeting to discuss the review of the drone ordinance and the potential conflicts with new FAA regulations and permitting requirements, but I will attempt to address the issues in this memorandum.

I am attaching for your information and the information of the Ordinance Rules and Standards Committee, a copy of my memo to the Ordinance Rules and Standards Committee dated November 7, 2016. One of the things I noted in that memo was a letter from Brandon C. Goldberg to David Wolpin in regard to the City of Aventura ordinance in which it was indicated that it is appropriate, and would not be a violation of the federal preemption, to regulate the takeoff and landing of drones within a municipality. Based upon that, I have been considering modifying our ordinance to take out any reference to the flying of drones but to prohibit the takeoff and landing of same within the corporate limits of the Town. This regulation would be consistent with the regulation which now exists for aircraft as set forth in Ordinance No. 08-2016. The substance of Ordinance 08-2016 would remain essentially the same, but would delete any reference to flying and would be limited to taking off and landing drones within the Town, still incorporating the exceptions that were included within the original ordinance. For referene, I am attaching a copy of Ordinance No. 08-2016 and the cover memo relating to same.

Please be advised that I have been in communication with Mr. Goldberg of the FAA, who has indicated that he is reviewing the Town's draft ordinance and will get back to me with any comments. As of this date, I have not received those comments. I would, therefore, request that the ORS defer this matter to the March meeting of ORS so as to allow this matter to be further reviewed by FAA.

In the meantime, I will keep you apprised of my progress.

Thank you.

JCR/jcl
Attachments

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Memo

To: Jay Boodheshwar
From: John C. Randolph
Date: November 7, 2016
Subject: ORS Meeting November 10, 2016
 Drone Ordinance

Jay,

As you know, I have a conflict and will not be able to attend the ORS meeting scheduled for Thursday, November 10th, and will, therefore, be unable to provide my input in regard to the drone ordinance. Therefore, I am communicating my thoughts in regard to same through this correspondence.

Subsequent to the adoption of Ordinance No. 08-2016 relating to drones, a copy of which I have attached, along with the backup memorandum to the Mayor and Town Council in regard to same, the Town has received objections to the ordinance on the basis that the Town's ability to regulate in this area is pre-empted by the Federal Aviation Authority which has sole authority for control and regulation of the National Airspace System ("NAS"). This information has caused us to restudy this matter. We have found that the matter of pre-emption is in somewhat a state of flux including reports that the FAA has concluded that "certain legal aspects concerning small unmanned aviation systems use may be best addressed at the state or local level."¹ To the best of my knowledge, however, the current position of the FAA is that the pre-emption still exists.

I have spoken to David M. Wolpin, the attorney for the City of Aventura which adopted a drone ordinance in the manner and form attached. This ordinance does two things. First, it regulates drones at public gatherings and, second, it provides protection of privacy from drone use in the manner and form adopted by State Statute, Section 934.50(5)(b). This is a very limited ordinance dealing with public safety at large public gatherings and with the issue of privacy as provided under state law. I have provided a copy of Section 934.50 for your information. I have found other ordinances of other municipalities which purport to regulate the use of drones, including the code in the City of Miami which you have previously seen, and the codes for St. Petersburg and Bonita Springs. Miami's code, similar to Aventura's, is intended to regulate the use of drones in and over large public events. St. Petersburg's code provides that no such aircraft shall be flown over any improved roads, streets or alleys within the city and shall not be

¹ Federal Aviation Administration FAA Recognizes Local Authority in New Drone Regulations.

November 7, 2016

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flown over private property without the written permission of that property. Bonita Springs has a specific provision relating to the use of drones to photograph special events and regulates where and the conditions under which the drones may be flown. Interestingly, also, there is an ordinance in the City of Belleair Beach, Florida in regard to aircraft which states that aircraft of any kind shall not land or take off within the city limits without prior approval of the city council. That provision is similar to an existing provision in the Town's Code of Ordinances at Section 14-34 which states:

"It shall be unlawful to take off or land any aircraft in the town other than a location duly designated for such activity."

Prior to consideration of this drone ordinance, the Town's code enforcement division was using the above referenced provision of the Town code to prohibit the takeoff and landing of drones within the corporate limits of the Town. It appears to me that that is a valid provision which can be enforced. In this regard, please see the letter from the Federal Aviation Administration to David Wolpin at paragraph 2 which states as follows:

2. Regarding the ordinance establishing UAS operational restrictions at public gatherings, as stated in the FAA's UAS Fact Sheet and generally speaking, any law that regulates flight paths or establishes operational bans are operational restrictions with which we could not concur. The city's prohibition of UAS being "flown in any airspace . ." constitutes such an operational restriction. However, the city may regulate where UAS may take off or land (i.e., launched).

Note also the final paragraph on the first page of the letter which states as follows:

The City of Aventura is free to pursue UAS legislation. However, if there is a legal challenge and the agency's views are requested by a court or other official body, our position would be consistent with the principles set forth in the Fact Sheet.

It is apparent from this letter that the Town may continue to enforce the provisions of Section 14-34 in regard to the takeoff and landing of drones within the corporate limits of the Town. It does not appear, however, under the current state of the law that the Town can regulate flight paths or establish operational bans or restrictions relating to the flight of such drones.

Having said that, and because of the apparent flux in the status of the law relating to this matter, it is my advice that the Town consider rescinding Ordinance No. 08-2016 in which it attempts to regulate the operation of drones within the Town, but that it continue

November 7, 2016
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to rely upon Section 14-34 of the Town code to restrict the takeoff and landing of drones within the Town.

In the meantime, I believe the Town should continue to stay abreast of what is going on in this area of the law, specifically as it relates to the pre-emption by the Federal Aviation Administration. It may well be that legislation will ultimately allow local regulation of drones.

I would, therefore, recommend deferral of any further consideration of this matter until we have some substantive change in the law which will allow local regulation.

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U.S. Department
of Transportation

Southern Region
Office of the Regional Counsel

P.O. Box 20636
Atlanta, Georgia 30320

**Federal Aviation
Administration**

**(404) 305-5200
(404) 305-5223 FAX**

CERTIFIED MAIL
MAY 26 2016

David Wolpin, Esq.
Weiss Serota Helfman Cole & Bierman
200 E. Broward Blvd.
Suite 1900
Ft. Lauderdale, FL 33301

Re: City of Aventura Proposed UAS/Drone Ordinances

Dear Mr. Wolpin:

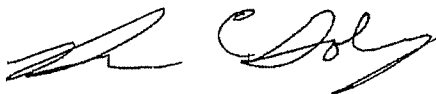
The FAA is in receipt of your May 5, 2016 correspondence regarding proposed unmanned aircraft systems (UAS) ordinances for Aventura. Please find below the FAA's comments regarding Aventura's proposed language.

1. Regarding the definitions sections, if any of these definitions relating to aviation are not consistent with the FAA's official definitions in federal statutes or regulations, then the city could be open to a preemption defense in the future.
2. Regarding the ordinance establishing UAS operational restrictions at public gatherings, as stated in the FAA's UAS Fact Sheet and generally speaking, any law that regulates flight paths or establishes operational bans are operational restrictions with which we could not concur. The city's prohibition of UAS being "flown in any airspace ..." constitutes such an operational restriction. However, the city may regulate where UAS may take off or land (*i.e.*, launched).
3. Regarding the ordinance concerning privacy, to the extent this ordinance regulates flight paths or bans operations in certain airspace, these would be operational restrictions with which we could not concur. The City of Aventura is free to apply any *generally applicable* voyeurism or privacy laws (*i.e.*, those that might apply anywhere within the city limits) not specifically directed at UAS use or UAS operations. However, proposed section 30-211(3) is directed solely at UAS.

The City of Aventura is free to pursue UAS legislation. However, if there is a legal challenge and the agency's views are requested by a court or other official body, our position would be consistent with the principles set forth in the Fact Sheet.

Thank you for contacting the FAA regarding your proposed ordinances. If you have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Goldberg", written in a cursive style.

Brandon C. Goldberg
Attorney
Office of the Regional Counsel
Southern Region

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: Jay Boodheshwar, Deputy Town Manager

RE: Amendment to Town Code of Ordinances at Chapter 14, Aviation; Article II – Aircraft; to Include a new Section 14-35, “Drones; Model Aircraft”
Ordinance No. 08-2016

DATE: May 2, 2016

STAFF RECOMMENDATION

Staff recommends Town Council approval of Ordinance No. 08-2016, amending the Town Code of Ordinances at Chapter 14, Aviation; Article II – Aircraft; to include a new Section 14-35, “Drones; Model Aircraft.”

GENERAL INFORMATION

Approval of Ordinance No. 08-2016 would amend Chapter 14, Article II of the Town Code pertaining to aircrafts, to include a new Section 14-35 relating to drones and model aircraft. After several months of study by the Ordinances, Rules and Standards Committee approval of this ordinance will provide a definition for drone/model aircraft and regulations pertaining to same for operation within the Town of Palm Beach. In summary, drones and model aircrafts would be prohibited from being operated within the Town unless specifically exempted or permitted per this ordinance. For permitted uses, an application process will be required and a corresponding fee will apply. A companion resolution approving said fee will be presented for Town Council consideration at the second and final reading of this ordinance.

The language included in Ordinance No. 08-2016 was reviewed by a representative from the Federal Aviation Administration and no concerns were expressed.

TOWN ATTORNEY REVIEW

Ordinance No. 08-2016 was prepared and approved by the Town Attorney.

Attachment

cc: John C. Randolph, Town Attorney
Kirk Blouin, Director of Public Safety
Nicholas Caristo, Police Lieutenant
Benjamin Alma, Code Enforcement Manager

ORDINANCE NO. 08-2016

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 14, AVIATION; ARTICLE II - AIRCRAFT; TO INCLUDE A NEW SECTION 14-35, "DRONES; MODEL AIRCRAFT", PROVIDING FOR PURPOSE, DEFINITION, PROHIBITION, EXEMPTIONS AND REQUIREMENTS FOR A PERMIT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 14, Article II - Aircraft, to include a new Section 14-35, to read as follows:

Sec. 14-35. – Drones; Model Aircraft

(a) Purpose.

As a result of the rapid implementation of drone and model aircraft technology, many issues arise from their use, such as invasion of privacy and concerns for public safety. Drones and model aircraft have the ability to carry wireless cameras that record data and/or transmit live streams of data. Without regulating the use of drones and model aircraft, they could be used to invade the privacy of Town residents who are enjoying the use of their property.

In addition, drones and model aircraft are defined as unmanned aerial systems (UAS's). They pose a public safety concern not only to other aircraft or objects in the air, but to the residents of the Town and their property. Some of these concerns include, but are not limited to, unexpected drone or aircraft malfunctions, loss of control, unforeseen incidents that can cause inability to sustain flight as intended, their ability to carry weapons and the potential for use in the planning and execution of a wide variety of criminal activity.

(b) Definition.

"Drone / Model Aircraft" is defined as a powered, aerial vehicle that:

- a) Is any contrivance used or designed to navigate or fly in the air;
- b) Does not carry a human;
- c) Uses aerodynamic forces to provide vehicle lift;
- d) Can fly autonomously or be piloted remotely;

- e) Can be expendable or recoverable
- f) Model aircraft of less than three pounds and which do not carry a camera are not included within this definition.

(c) Prohibition.

No person, entity, governmental unit or law enforcement agency may take off, fly or land a drone or model aircraft within the confines of the Town of Palm Beach unless specifically exempted or permitted in accordance with the terms of this ordinance.

(d) Exemptions.

The following shall be exempt from the prohibitions stated above subject to their meeting all applicable Federal Aviation Administration (FAA) rules regarding operation and registration.

- a) A law enforcement agency which has obtained a court approved warrant authorizing its use for investigations;
- b) Where, upon approval of the Director of Public Safety or the Director's designee it is determined that a drone or model aircraft is necessary to assist law enforcement, fire rescue or ocean rescue personnel in emergency situations or critical incidents;
- c) Where the drone or aircraft is operated only within the boundaries of an individual's real property and where the drone or model aircraft operation for personal use.

(e) Drone / Model Aircraft Operation Requirements Subject to Issuance of a Permit:

Drone/model aircraft operation used for educational, environmental or commercial purposes may be permitted by the Town subject to the requirements listed below: The drone or model aircraft

- Must weigh no more than 55 lbs;
- Must remain within the visual sight of the operator at all times;
- May not be operated over any person, gathering of persons or residences that would cause a hazardous or unsafe condition;
- May not be operated at an altitude that would create a hazardous condition and/or interfere with any plane, helicopter or other aircraft already in flight, as per FAA requirements;
- May not have an airspeed in excess of 100 mph;
- Must have a minimum weather visibility of 3 miles;
- Must be operated between sunrise and sunset;
- May not be operated in a careless or reckless manner;

- Operator must demonstrate that the person operating the drone has no physical or mental condition that would interfere with the safe operation of the drone;
- Applicant shall provide a minimum of \$1,000,000.00 of liability insurance for the use of drones and model aircraft;
- Operator and model aircraft equipment must meet all current FAA requirements for commercial UAV operations;
- Must be properly registered with the FAA according to FAA guidelines.

(f) Permit Application.

Permits for the operation of drone/model aircraft as provided herein shall be applied for with the Director of Public Safety at least thirty (30) days prior to the date upon which the drone or model aircraft is to be operated. In the event of an emergency or similar time sensitive situation in which it is impractical to apply thirty (30) days prior to the date upon which the drone or model aircraft is requested to be flown, the Director of Public Safety, for good cause shown, allow for an expedited application of less than 30 days prior to the event. The permit shall detail the specific reason for the need for the operation of the drone or model aircraft, the specific time and specific place the drone or model aircraft is to be operated. In the event the drone is to be used for commercial motion picture making, the applicant must comply with the provisions of Chapter 22 of the Town Code of Ordinances. However, commercial motion picture making shall not include videos made for purposes of monitoring, for environmental purposes or for aerial tours conducted in regard to real estate promotion or sales. The drone operator shall provide the Town proof of liability insurance for the use of drones and model aircraft in an amount not less than \$1,000,000.00 per incident. The permit will only be issued after being reviewed and approved by the Director of Public Safety or a representative designated by the Director of Public Safety and upon payment of a permit fee in an amount to be established by resolution.

(g) Penalty.

Any person or entity in violation of any of the provisions of this ordinance shall be subject to the code enforcement provisions relating thereto.

Section 2. Severability.

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

Section 3. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. Codification.

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

Section 5. Effective Date.

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

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 10th day of May, 2016, and for second and final reading on this 14th day of June, 2016.

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST:

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

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TOWN OF PALM BEACH

Information for ORS Meeting on: February 2, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jay Boodheshwar, Deputy Town Manager

Re: Potential Amendment of Section 42-199 of the Town Code of Ordinances,
Relative to Hours for Construction Work

Date: January 29, 2017

STAFF RECOMMENDATION

Staff recommends the Ordinance, Rules and Standards (ORS) Committee of the Town Council study the Town Code of Ordinances at Section 42-199, relative to modifications to regulations pertaining to construction work, and provide direction to staff regarding potential modifications.

GENERAL INFORMATION

Staff has previously received concerns about the length of the “construction season” and requests to consider modifications to shorten it in response to the changing seasonality of Palm Beach, in which residents are spending longer periods in residence if not making Palm Beach their year-round home altogether. Therefore, Town Council authorized ORS to study this matter to determine if it is appropriate to consider modifications to the currently defined “construction season.”

Per Chapter 42 of the Town Code of Ordinances, Section 42-199. - Hours for Construction Work, during the months of December through April of each year, construction work or other work resulting in noise tending to disturb the people in the vicinity thereof shall not begin until the hour of 8:00 a.m., and shall cease at the hour of 5:00 p.m., except Saturday, Sunday and legal holidays, when all construction work is prohibited. Heavy equipment or other construction-related noise is not permitted before 9:00 a.m. At all other times (May through November) such work may commence at 8:00 a.m. and cease at the hour of 6:00 p.m., except Sunday and legal holidays, including the Friday immediately after Thanksgiving, when all construction work is prohibited. However, the permitted hours for construction work in the C-WA zoning district shall be only 8:00 a.m. until 8:00 p.m. during the months commencing May 1 and ending on October 31, except Sunday and legal holidays, when all construction work is prohibited.

Section 42-199 provides for exceptions to the limitations outlined above, including the allowance of interior work not resulting in noise tending to disturb people in the vicinity thereof, during the hours of 9:00 a.m. and 5:00 p.m. on Saturdays during the period commencing on December 1 and ending on April 30.

While there are certainly benefits to shortening the construction season and/or hours permitted, there are also downsides. Staff will present initial pros and cons to assist ORS in its consideration of the concerns and potential solutions.

cc: John C. Randolph, Town Attorney
H. Paul Brazil, P.E., Director of Public Works
John Page, Director of Planning, Zoning & Building