

TOWN OF PALM BEACH

Town Manager's Office
ORDINANCES, RULES AND STANDARDS COMMITTEE

**TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD**

AGENDA

NOVEMBER 17, 2022

9:30 AM

Welcome!

For information regarding this agenda and the procedures for public participation at Ordinances, Rules and Standards Committee, please refer to the end of this agenda.

I. CALL TO ORDER AND ROLL CALL

Julie Araskog, Chair
Ted Cooney, Member

II. PLEDGE OF ALLEGIANCE

III. APPROVAL OF AGENDA

IV. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

V. REGULAR AGENDA

A. Old Business

1. Native Landscaping Regulations - Further Review by ORS Committee
Wayne Bergman, Director of Planning, Zoning & Building
2. Maximum Landscape Height of Buffers and Separation Distances
Between Landscape Buffers and Neighboring Buildings

VI. ANY OTHER MATTERS

VII. ADJOURNMENT

PLEASE TAKE NOTE:

- Note 1:** No written materials received after 3:30 p.m. on the Thursday immediately prior to a monthly Ordinances, Rules and Standards Committee will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 3:30 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.
- Note 2:** The progress of this meeting may be monitored by visiting the Town's website (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.
- Note 3:** If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
- Note 4:** Disabled persons who need an accommodation in order to participate in the Ordinances, Rules and Standards Committee 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.
- Note 5:** Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.
- Note 6:** All back-up material for the items listed on the agenda are posted to the Town's website and emailed to all Stay Informed subscribers on the Friday before the Ordinances, Rules and Standards Committee. To access the back-up materials and/or subscribe to the Stay Informed list, please visit the Town's website (townofpalmbeach.com).

PROCEDURES FOR PUBLIC PARTICIPATION

Citizens desiring to address the Town Council should proceed toward the public microphones when the applicable agenda item is being considered to enable the Town Council President to acknowledge you.

PUBLIC HEARINGS: Any citizen is entitled to be heard on an official agenda item under the section entitled "Public Hearings," subject to the three minute limitation.

COMMUNICATIONS FROM CITIZENS: Any citizen is entitled to be heard concerning any matter under the section entitled "Communications from Citizens," subject to

the three minute limitation. The public also has the opportunity to speak to any item listed on the agenda, including the consent agenda, at the time the agenda item comes up for discussion.

**OTHER AGENDA
ITEMS:**

Any citizen is entitled to be heard on any official agenda item when the Town Council calls for public comments, subject to the three minute limitation.

Ordinances, Rules and Standards Committee are public business meetings and, as such, the Town Council retains the right to limit discussion on any issue.

TOWN OF PALM BEACH

Ordinances, Rules and Standards Committee on: October 17, 2022

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Native Landscaping Regulations - Further Review by ORS Committee

Presenter

Wayne Bergman, Director of Planning, Zoning & Building

ATTACHMENTS:

- **Memorandum dated October 5, 2022 from Wayne Bergman, Director of Planning, Zoning & Building**

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 17, 2022

To: ORS Committee Members

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

Re: Native Landscaping Regulations Amendments

Date: October 5, 2022



GENERAL INFORMATION & BACKGROUND

Chapter 66, Natural Resource Protection, was updated in early 2021 to address the benefits of using native landscape. The update included a requirement for new landscape projects to include at least 25% native vegetation. Native landscape plants were identified by referencing a few different Florida plant lists and guides.

Since the adoption of that 2019 update, there have been multiple ORS Committee and Town Council meetings which have included this matter. The Town adopted Ordinance No. 024-2021 on November 10, 2021. This ordinance:

- Raised the percentage of required native plantings from 25% to 35%; and
- Calculates the percentage on the actual number of plants; and
- References the Institute for Regional Conservation (IRC), Natives for Your Neighborhood as the sole list of native plants; and
- Uses the Florida Invasive Plant Species Guide (FLIP) for a listing of invasive plants.

Since the adoption of this new ordinance, questions remain about the native landscape requirements. The new regulations mandate 35% of natives for the categories of trees, palms, shrubs, and vines / groundcover. Coconut Palms are not native to this area but are a desired palm tree to be used. There has been talk of possibly removing palms as a category. Also, the 35% minimum requirement is seen by some landscape designers as excessive. The Town regulations also do not specify a minimum number of shade trees to be planted, which enhance the streetscape, provide shade buildings, and yard areas, and help to diminish the heat island effect of hardscape.

In addition, a letter was sent to the Mayor & Town Council, authored by several local landscape design professionals, requesting changes to the new regulations. A copy of that letter is attached.

Collectively all of these matters should be discussed in an effort to amend the code.

Attached: ORS Committee Memo, dated August 25, 2021, w/ backup
 ORS Committee Memo, dated June 23, 2021, w/ backup
 TC Memo, dated October 14, 2021
 Ordinance 024-2021 (not signed, but it was adopted)
 Email from Amanda Skier, Preservation Foundation of Palm Beach
 Letter to the Mayor & Town Council
 Minute Excerpt from the May 11, 2022 Town Council meeting
 Portion of Current Chapter 66, Sections 66-211 through 66-314
 Table of Native Plant Regulations in Other Municipalities

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: September 2, 2021

To: ORS Committee Members

Via: Jay Boodheshwar, Deputy Town Manager

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

Re: Native Landscaping Regulations – Further Review by the ORS Committee

Date: August 25, 2021

STAFF RECOMMENDATION

Staff requests that the ORS Committee consider the information provided below, relative to native landscaping regulations currently contained in Chapter 66, and provide direction to staff.

GENERAL INFORMATION

Chapter 66, Natural Resource Protection, was updated in early 2019 via Ordinance No. 21-2018, to address the benefits of using native landscape. See attached. The update included a requirement for new landscape projects to include at least 25% native vegetation. Native landscape plants were identified by referencing a few different Florida plant lists and guides.

Since the adoption of the update, staff and applicants have questioned how the 25% requirement should be calculated and which plant list or guide was best to follow. These questions have remained unanswered for about a year and a half. Today's landscape plans show compliance with the 25% minimum, but there is no specificity on how the 25% is calculated and the plans usually do not show which list or guide was followed to delineate native versus non-native plants. These issues were presented to the Town Council last year and the matter was forwarded to the ORS Committee to review.

Staff provided a cover memo and substantial backup to the ORS Committee on July 1, 2021. See attached. The questions of how to calculate the 25%, which plant guide should be followed, and whether 25% was an appropriate amount of natives, were posed to a few landscape design professionals over the past year, and their responses were also provided to ORS. A lengthy discussion occurred at the meeting and options were reviewed, but ORS did not find answers to the questions raised by staff and others. As a result, the matter went back to Town Council on August 10, 2021, to seek direction on how to resolve the open issues. The matter was deferred by the Town Council at that meeting until September 14, 2021.

This delay provides an opportunity to have the ORS Committee consider and review the matter further. As a starting point, after much thought, staff suggests using the actual number of plants as the way to calculate the 25% native requirement. So for example, if 100 new plants were proposed to be installed, 25 of them would have to be native. Also as a starting point, staff suggests using the South Florida Water Management District (SFWMD) Water Wise Guide as the sole native landscape list for the Town.

The Town may want to consider if 25% native plant requirement is appropriate for the different categories of plant species – including palms, trees, shrubs, ground cover, and vines. We may want to have differing percentages for each of these general categories. The Town should also look at ways to encourage (or mandate) a diversity of plant selections to achieve compliance, as opposed to using just one type of plant.

Attachments

ORDINANCE NO. 21-2018

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AT CHAPTER 66, NATURAL RESOURCE PROTECTION, AT ARTICLE 1, IN GENERAL, SECTION 66-2, DEFINITIONS; AT ARTICLE IV, VEGETATION, SECTION 66-212, PURPOSE AND INTENT; TO INCLUDE A NEW SECTION 66-285, GENERAL UNDER DIVISION 4, DESIGN REQUIREMENTS; AMENDING SECTION 66-286, WATER CONSERVING LANDSCAPE DESIGN; AND AMENDING SECTION 66-311, PROHIBITED PLANTS; 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 foregoing recitals are hereby ratified and confirmed.

Section 2. The code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 66, Natural Resource Protection; Article I, In General; Section 66-2, Definitions, to read as follows:

"Sec. 66-2. - Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

DSH means diameter at standard height (4.5 feet or 1.37 meters) measured from the top of rootball.

~~Evapotranspiration-based controller means an irrigation controller that calculates soil moisture from known weather and related inputs, as follows:~~

- ~~(1) Receives and monitors weather data or on-site environmental conditions;~~
- ~~(2) Calculates the amount of moisture input to and moisture lost from the soil and plants;~~
- ~~(3) Automatically creates or adjusts the irrigation schedule to apply only the amount of water necessary to maintain adequate soil moisture.~~

Hat racking means the removal of main stems, tops of trees, or a significant percentage of tree canopy, generally by cross-cutting the main stem(s) or leaders, leaving stubs.

Hedge means a dense row of regularly spaced shrubs planted to form a continuous, unbroken visual screen.

Mulch means nonlivingorganic, arsenic free material such as wood chips, pine straw or bark placed on the soil to reduce evaporation, prevent soil erosion, control weeds and buffer soil temperature, and synthetic materials customarily used in landscape design to retard erosion and retain moisture.

Native plant community is a natural association of plants dominated by one or more prominent native plant species.

Native plant species shall be the plant species indigenous to the ecological communities of South Florida, as indicated as native to South Florida by the University of Florida in the Atlas of Vascular Plants, or that can be scientifically documented to be native to South Florida.

Pollarding is a pruning system involving the removal of the upper branches of a tree thus promoting a dense head of foliage and branches.

Section 3. The code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 66, Natural Resource Protection; Article IV, Vegetation, to read as follows:

"DIVISION 1. - GENERALLY

Sec. 66-212. - Purpose and intent.

It is the intent of the town to promote the health, safety and welfare of existing and future residents of the town by establishing minimum standards for the protection of natural plant communities, and the installation and continued maintenance of landscaping within the town, in order to:

- (1) Promote health and safety through greater use of cultural and biological controls and reduced use of chemical pesticides for the management of pests, such as whitefly.
- (2) Promote the planting of appropriate native vegetation to encourage the presence of birds and wildlife and to eliminate or significantly reduce the need for fertilizers, pesticides and water
- (3) Promote water conservation and improve air quality by promoting evapotranspiration and through the use of permeable land areas for aquifer recharge and surface water filtration.
- (4) Maintain and improve the aesthetic appearance of the town through appropriate landscape design; thereby protecting and increasing property values throughout the community.
- (5) Improve the environmental quality of the town.
- (6) Eradicate or control certain Category I invasive exotic plant species and eradicate or control Category II invasive exotic plant species as listed on the most current Florida Exotic Pest Plant Council's List of Invasive Plant Species.
- (7) Protect and encourage native shoreline and wetland ecosystems.
- (8) Offer special guidelines for the removal and control of those pestilent exotic species that are particularly deleterious to native shoreline environments.
- (9) Protect listed plant species that inhabit the town as referenced in Sec. 66-312.
- (10) Reduce noise and pollution by designing landscaping to visually screen unsightly views and reduce noise impacts from major roadways and incompatible uses, through the filtering capacity of living trees and vegetation.
- (11) Provide a visual buffer between otherwise incompatible types of land uses.
- (12) Strengthen important vistas and reinforce desirable site design.
- (13) Promote energy conservation by encouraging cooling through the use of vegetation that creates shade.

(14) Encourage the use of rain harvesting systems, such as cisterns, as a means to conserve water by reducing overwatering of landscapes.

(15) Promote water conservation and lower water costs through the use of smart irrigation systems and planting native plants appropriate for the location.

Section 4. The code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 66, Natural Resource Protection; Article IV, Vegetation, to read as follows:

DIVISION 4. - DESIGN REQUIREMENTS

Sec. 66-285. – General

(1). At least 25 percent (25%) of all new required landscaping, in the form of trees, shrubs and ground cover plants, other than grass, shall consist of native vegetation. To determine appropriate native vegetation the Xeriscape Plant Guide by the South Florida Water Management District, or if available County or regional lists as amended may be used.

(2) The hatracking of trees is prohibited; however pollarding is permitted.

Section 5. The code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 66, Natural Resource Protection; Article IV, Vegetation, to read as follows:

Sec. 66-286. - Water conserving landscape design.

(5) Use of organic mulches. When appropriate, a minimum of two inches of arsenic-free organic mulch shall be installed around each tree planting for a minimum of 18 inches beyond its trunk in all directions, including palms, and throughout all hedge, shrub, and groundcover plantings. Mulch shall be pulled a minimum of two inches away from trees and palms. Appropriate mulching material consists of by-product or alternative mulches such as eucalyptus, pine needles, pine finds, oak leaf, Atlas grow soil, utility or other mulch as recommended by Florida Friendly Landscaping principles. The use of Cypress mulch, pine mulch, and dyed mulches is prohibited.

Section 6. Sec. 66-311. Prohibited Plants is hereby amended to include the following provisions:

(d) Prohibition of ficus benjamina. Due to extreme susceptibility of the invasive white fly pest and the consequent enforcement issues to require owners to treat or remove infested ficus benjamina, no new planting of ficus benjamina shall be allowed. The planting of appropriate native vegetation in a hedge or hedgerow is encouraged.

(ed) Protection of natural area and incentives. The county has recognized the Palm Beach Island Sanctuaries (R43 T43 S34; R43 T44 S03/10/15) located within

the town as a natural area containing high quality ecosystems that are worthy of protection. The town hereby adopts for purposes of the protection of said natural area and for purposes of the regulation of the buffer area around said natural area those sections of the County Code known as the "Palm Beach County Countywide Prohibited Invasive Non-Native Vegetation Removal Ordinance" relating to the protection and regulation of these areas. Additionally, the town adopts the incentive program offered by the county as incorporated within the "Palm Beach County Countywide Prohibited Invasive Non-Native Vegetation Removal Ordinance."

(fe) Enforcement. Violations of this section shall be:

- (1) Failure of a property owner to remove or eradicate prohibited invasive non-native vegetation in accordance with subsection (a) and (c) of this section.
- (2) Failure of a property owner to maintain nonexempt properties free of prohibited invasive non-native vegetation in accordance with subsection (c) of this section.

Section 7. Severability.

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

Section 8. Repeal of Ordinances in Conflict.

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

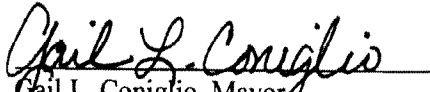
Section 9. Codification.

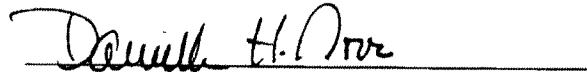
This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

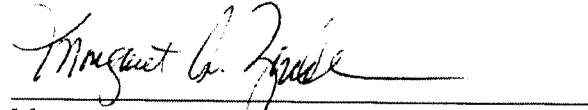
Section 10. Effective Date.

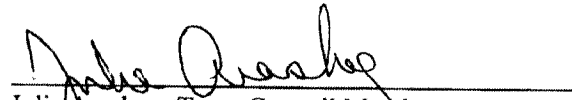
This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

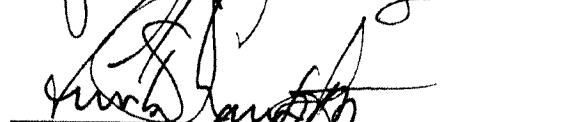
PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 19th day of March, 2019, and for second and final reading on this 9th day of April, 2019.


Gail L. Coniglio, Mayor

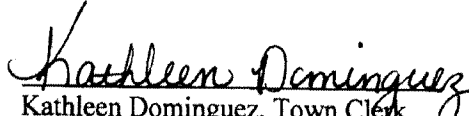

Danielle H. Moore, Town Council President

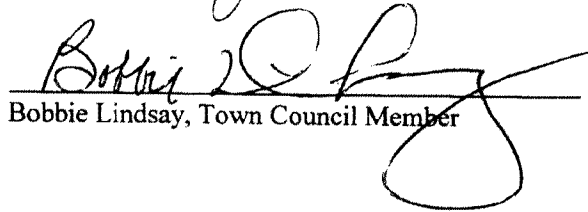

Margaret A. Zeidman, Council President Pro Tem


Julie Araskog, Town Council Member


Lewis S.W. Crampton, Town Council Member

ATTEST:


Kathleen Dominguez, Town Clerk


Bobbie Lindsay, Town Council Member



TOWN OF PALM BEACH

Information for ORS Meeting on: July 1, 2021

To: ORS Members

Via: Jay Boodheshwar, Deputy Town Manager

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

Re: Native Landscaping

Date: June 23, 2021

BACKGROUND

The Town Council adopted Ordinance No. 21-2018 on April 9, 2019. This ordinance amended Chapter 66, Natural Resource Protection, with regards to vegetation. The amendments included modified and new definitions, modifications to the purpose and intent of the vegetation article, and modified the design requirements of landscape projects. This ordinance added for the first time a minimum requirement of 25% native plants for new landscape projects.

This was a good step forward in requiring native landscaping to be part of every new landscape project. Native plants, although defined differently by many communities, basically are plants that naturally occur in this part of Florida, and do not require direct human interaction to grow. They are generally resistant to pests and require minimum moisture / irrigation to survive.

Once adopted, landscape designers began immediately providing simple data tables on their landscape plans that show the required 25% native landscape and the actual native landscape, which in every case equaled or exceeded the 25%. As staff worked with this new requirement on minimum native landscaping, it became clear that more work was required on the code to provide the details of native landscape calculations, and what plant material was to be included in the calculation measurement. As these items were reviewed, the actual native lists were examined, as there are many native plant lists that deal with South Florida. The need became clear that the new requirement raised more questions than answers, and staff and the Town Council worked last year to place this item before the ORS Committee.

GENERAL INFORMATION

Staff's study focused primarily on four general areas of review. The first area reviewed was the 25% requirement, and how the 25% should be calculated, and which plant classes are included in the count. The second review area was whether the arbitrary 25% is the appropriate percentage for the Town to require, and whether different percentages could be applied to different plant classes. The third area of review were the native landscape plant "lists" available to use and to try to identify which list best suits Palm Beach. Finally, the fourth area will be a full review of Chapter 66 to make certain that it is complete, consistent and not in conflict with other code regulations.

These studies started with a review of neighboring communities and an examination of their codes relative to the native landscaping. Staff also found the "Model Native Plant Landscape Ordinance Handbook", produced by the Florida Native Plant Society. Staff looked at several native plant lists, and spoke with several local landscape design professionals to get their thoughts on the best possible way to deal with the Town's desire to improve and resolve conflict with the native plant regulations.

Staff did their level best to put this memo and packet together based on facts. It is based on notes, emails, phone calls, and meetings that have taken place over the past year. We trust that all details are accurate and reflective of past conversations.

1. HOW TO CALCULATE THE TWENTY-FIVE PERCENT (25%) NATIVE REQUIREMENT

The first area of review was to look at the existing 25% native requirement and try to understand how this is quantified. The primary question that should be addressed is how the 25% metric is calculated. Does this mean 25% of the landscape area must be native, or 25% of the number of new plants must be native? Other questions remain, such as if the 25% represents area coverage, is it calculated at the time of plant material installation, or at maturity? Does it include only newly planted landscape areas, or the total landscaped area of a lot (some of the lot are may be untouched during the project)? Do you count the plants or coverage of shrubs located under a native tree canopy? How can staff or Commissioners determine if the 25% requirement is met if we have no common understanding of how the 25% is calculated?

Over the last year staff reached out to six local landscape design professionals to speak about this matter. Only two of them provided strong opinions on the best way to calculate the native requirement. Richard Rutledge, with Innocenti & Webel Hobe Sound, strongly favored counting the trees and shrubs. Keith Williams, with Nievera Williams Palm Beach, likes the area coverage approach. Most of the municipal ordinances reviewed were silent on how the calculation is performed. The Model Native Plant Landscape Ordinance Handbook suggests using area coverage.

2. IS THE TWENTY-FIVE PERCENT (25%) NATIVE REQUIREMENT SUFFICIENT

The next item reviewed was whether the Town requirement of 25% natives was sufficient, especially when compared to other municipalities that enacted native landscape regulations. Here is a simple comparison of required native plants in several (19) South and Central Florida communities:

MUNICIPALITY	NATIVE LANDSCAPE REQUIREMENT		MUNICIPALITY	NATIVE LANDSCAPE REQUIREMENT
Brevard County	50%		Dade County	30%
Indian River County	50%		Islamorada	75%
Key Colony Beach	50%		Key West	70%
Lee County	50% to 75%		Manalapan	50%
Manatee County	30%		Marathon	70%
Martin County	50%		Miami	30%
Monroe County	10% to 70%		Ocoee	40%
Pasco County	30%		Polk County	Recommended
Sanibel	75%		St. Lucie County	50% to 100%
West Palm Beach	65% (Point-Based)			

Many communities do not have native landscape requirements at this time. Some communities set differing minimum requirements for different classes of plants, such as Lee, St. Lucie, and Monroe Counties. Trees, palms, shrubs, vines, and ground cover could all have different native minimum requirements. Richard Rutledge suggested this practice for Palm Beach, especially for trees and shrubs.

Copies of neighboring codes are attached for your review. Each community takes a different approach to setting their landscape regulations. Raymond Jungles favors the regulations in Monroe County. Keith Williams likes the Martin County regulations and the point-based systems.

3. WHICH NATIVE LANDSCAPE LISTS SHOULD BE USED

The current Town Code found in Chapter 66 references a number of plant lists found in Florida. Section 66-2, Definitions, uses the University of Florida Atlas of Vascular Plants to help define “Native Plant Species”. This atlas is now called the Atlas of Florida Plants by the Institute for Systemic Botany, and can identify native plants by county. Section 66-212, Purpose and Intent, references the most current Florida Exotic Pest Plant Council’s List of Invasive Plant Species. Section 66-285 mentions three other lists, the Xeriscape Plant Guide by the South Florida Water Management District, the “county list” (not clear what this is referencing), and the “regional list” (not clear what this is referencing).

Copies of many of these lists are attached for your review.

Raymond Jungles and Susan Lerner both liked the native plants list from the Institute for Regional Conservation, Natives for Your Neighborhood, which online can be filtered by zip code. <https://regionalconservation.org/beta/nfyn/default.asp> Susan Lerner, Richard Rutledge and Keith Williams liked the list prepared by the Florida Native Plant Society, Native Landscape Plants for Your Area. <https://www.fnps.org/plants> Jorge Sanchez last year mentioned that he liked the South Florida Water Management District Waterwise Guide. https://www.sfwmd.gov/sites/default/files/documents/ww0_waterwise_all.pdf

There are minor differences between the lists as to what plant species are truly native.

4. OTHER CODE MATTERS REGARDING NATIVES

The final part of this review is to make certain that the balance of the native regulations are still relevant and understandable. I included the Model Native Plant Landscape Ordinance Handbook as a resource for this discussion, as the draft ordinance contained within the handbook speaks to a complete native program, including invasive plants. The ORS Committee may wish to review the draft ordinance in the handbook and determine if the Town Code (Chapter 66) could or should be amended to include any other native landscape provisions mentioned in the draft ordinance.

In closing, Susan Lerner spent a lot of her time helping staff sort through the issues and possible solutions. She also drafted a simple form that can be used for the review of landscape plans in the near future for land use projects going before Arcom, Landmarks and Town Council. That form (spreadsheet) is attached.

Attached:

- Ordinance No. 21-2018
- Landscape Codes for: Brevard, Dade, Indian River, Lee, Manatee, Martin, Monroe, Pasco, Polk, and St. Lucie Counties; and the municipalities of Islamorada, Key Colony Beach, Key West, Manalapan, Marathon, Miami, Ocoee, Sanibel, and West Palm Beach
- Florida Exotic Pest Plant Council's List of Invasive Plant Species
- Atlas of Florida Plants by the Institute for Systemic Botany
- Institute for Regional Conservation, Natives for Your Neighborhood
- Florida Native Plant Society, Native Landscape Plants for Your Area
- South Florida Water Management District Waterwise Guide
- Model Native Plant Landscape Ordinance Handbook
- Landscape Review Form



Land Planning
Landscape Architecture
Landscape Management

June 28, 2021

Town of Palm Beach
Planning, Zoning, Building
360 S. County Road
Palm Beach, Florida 33480

Attn: Mr. Wayne Bergman
Re: Update to Native Landscape Code -- Town of Palm Beach

TREES / PALMS

Each lot should have a required amount of trees (formula based on LOS)

- 1 tree per (sf.) of LOS
- Palms can be substituted at a 3:1 ratio (typical of other municipalities)
- Palms should not exceed 50% of the required trees
- 50% of required trees should be native

SHRUBS

No minimum amount of required shrubs.

25% of all proposed shrubs, groundcovers, and vines should be native

25% of the QUANTITY – not COVERAGE

The above requirements could be reflected in a 'standard' chart that the Town would require all landscape plans to include.

NOTE:

For *MINOR* projects (with a limited scope of work) the above requirements would still be required within the outlined area of work. The *Limits of Work* would have to be clearly defined on the submitted plans. Staff could also waive this requirement if it didn't make sense based on a limited scope of work or hardscape only application (ie. gates, walkways, landscape lighting, etc...)

ARTIFICIAL TURF

Should be allowed for areas NOT visible from public ROW.

Should be counted as hardscape NOT LOS.

Should not exceed 10% of the total site.

Applicant would have to present to ARCOM for approval of physical sample.

There are substantial differences in the quality of synthetic turf applications on the market today.

For your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Dustin M. Mizell".

Environment Design Group
Dustin M. Mizell, MLA RLA #6666784

Paramount Building
139 North County road, Suite 20-B
Palm Beach, FL 33480
561.832.4600 phone
meroney@environmentdesigngroup.com

Wayne Bergman

From: Amanda Jungles <amanda@raymondjungles.com>
Sent: Friday, March 12, 2021 12:53 PM
To: Wayne Bergman
Cc: James Murphy
Subject: Native Landscape - RJJ Response
Attachments: ww0_waterwise_all.pdf

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Good afternoon Wayne,

Per Raymond, "Wow! That SFWD guide is thorough." (See attached PDF)

Overall, Raymond looks up to Monroe County's requirement as the best. They require that all invasive species on a property have to be removed in order to get a building permit.

He thinks there needs to be a comprehensive list of native plants in the proper categories so it would be easy for people to select the correct plants.

Maybe this is something George Gann can do for the city as a consultant? At the least we feel that the link for the IRC website should be made available so the interested parties could find the right plants for their zip code.
<https://www.regionalconservation.org/index.html>

We would be happy to review and comment as this moves forward.

It is a very good thing you all are doing!

A few of our research notes below:

Palm Beach Native Landscape Requirements Research
Currently 25% of landscape needs to be native.

SFWMD
Only a plant list

MONROE COUNTY
100% of required parking lot material shall be native
Min. of 50% of required trees shall be native Canopy species
Min. of 40% of required trees shall be native understory species
Max. of 10% required trees may be native palm species

MANALAPAN
50% of plant material to be native.
Min. of 50% of required trees shall be native species as per Director's list.
Min. of 50% of required shrubs and hedges shall be native species as per Director's list.
3 Palms count as 1 Canopy tree

MIAMI

No less than thirty (30) percent of the required trees and/or palms shall be native species.

No less than thirty (30) percent of the shrubs shall be native species

Kind Regards,

Amanda Eva Jungles

New Business + Communications Director

O: +1 305 858 6777 (x06)

C: +1 786 239 8041

Raymond Jungles, Inc.

2964 Aviation Avenue

Miami, FL 33133

www.raymondjungles.com

**Please note we will be operating remotely until further notice. We will continue to be available by phone and email.*

Wayne Bergman

From: Jorge Sanchez <jorge@smila.net>
Sent: Sunday, August 02, 2020 3:18 PM
To: Wayne Bergman
Subject: Re: Florida Native

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Dear Wayne,

Please excuse my delayed response. It has been an unusual week for all of us.

SFWMD does have their own list. It is one that includes Natives & what they term as "Waterwise". I like their list, being that it is more inclusive; much more South Florida. It steps beyond the Native Nazi & brings it to a much more realistic list of plants for our environment. They also have the technical, unbiased background for a more appropriate list.

The list of plants for the Barton Road project does have many of the plants they claim as Native that fit the categories above, though there are a few that fit no category at all.

Hope this helps,

Jorge

Jorge A. Sánchez
SMI Landscape Architecture



Instagram

P: 561.655.9006 || www.smila.net

Recipient of the Arthur Ross Award

From: MCP Wayne Bergman <wbergman@TownOfPalmBeach.com>
Date: Thursday, July 30, 2020 at 7:42 AM
To: Jorge Sanchez <jorge@smila.net>
Subject: RE: Florida Native

Thank you Sir. I appreciate any help or guidance that you can provide. It seems there are several "lists" of what Florida natives plants are. We should all be following the same list.

Wayne Bergman, MCP, LEED-AP
Acting Director
Town of Palm Beach
Planning, Zoning, Building
360 S. County Road
Palm Beach, FL 33480
Office: 561-227-6426
Mobile: 561-232-7406
www.townofpalmbeach.com

Wayne Bergman

From: Keith Williams <keith@nieverawilliams.com>
Sent: Thursday, April 01, 2021 4:13 PM
To: Wayne Bergman
Cc: James Murphy
Subject: Re: Updates to Native Landscape Code

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Hello Wayne!

The Krey's on Jupiter Island said to say hi, they spoke very highly of you!
They are looking at building in WPB.

One thing that always bothered me doing it by count is a 12' HT Pigeon Plum counts the same as a specimen 25x25 Buttonwood. That's one good thing about the current method as it takes the size (and cost) into consideration.

It could be more of a point system like West Palm does so having 25% native trees/palm/shrub/GC is one point, 50% 2 points, 75% 3 points, etc. and you have to get to a minimum level. That would allow you to still make it up if you don't meet one category.

Definitely need clarity on which list. Maybe the town needs to make their own? There are a lot of plants that ARCOM/LPC/Town Council, the Garden Club, etc all have referred to as 'native' that are not. That would let it expand more to Florida Friendly rather than strictly natives. I think Florida Friendly should count for something, after all the idea is sustainability and there are exotics plants that are very sustainable.

Keith Williams ASLA
Nievera Williams Design Incorporated
223 Sunset Avenue, STE 150
Palm Beach, Florida 33480
561 659 2820

From: Wayne Bergman <wbergman@TownOfPalmBeach.com>
Sent: Tuesday, March 30, 2021 9:20 AM
To: Keith Williams <keith@nieverawilliams.com>
Cc: James Murphy <jmurphy@TownOfPalmBeach.com>
Subject: Updates to Native Landscape Code

GM Keith – I hope that you are safe and well.

Wayne Bergman

From: Susan Lerner <slerner@palmbeachpreservation.org>
Sent: Friday, September 04, 2020 4:13 PM
To: Wayne Bergman
Cc: Amanda Skier
Subject: Re: Draft Spreadsheet
Attachments: 2019_Plant_List_ABSOLUTE_FINAL FLEPPC.pdf; Barton Avenue Native Report.xlsx; Template for 25% natives.xlsx

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Good afternoon, Wayne,

Attached are several documents.

1 - The Florida Exotic Pest Plant Council's 2019 list.

2 - Barton Avenue report. This is written in my original working format, not the final I am attaching to this email.

3 - Template for the Landscape Architects to provide plant schedule information. It must be an Excel document, as this will also be used by me, as my determining checklist.

4 - Regarding suitable plants for use in the Town. Instead of a list, which can be limiting to creativity, here are three links that can be easily used.

Zipcode plants list: <https://www.regionalconservation.org/beta/nfyn/plantlist.asp?ZipCode=33480>

Zipcode habitats list: <https://www.regionalconservation.org/beta/nfyn/habitatlist.asp?ZipCode=33480>

County Plant list:
<https://www.fnps.org/plants/specieslist/PalmBeach>

Let me know if there's any questions.

Have a great weekend!

Susan

Susan Lerner
Director of Horticulture
Preservation Foundation of Palm Beach
311 Peruvian Avenue
Palm Beach, Florida 33480
T 561.832.0731 x113
M 646.258.0081

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 10, 2021

To: Mayor & Town Council

Via: Kirk Blouin, Town Manager

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

Re: Native Landscaping Regulations Amendments – Ord. No. 24-2021

Date: October 14, 2021

GENERAL INFORMATION

Chapter 66, Natural Resource Protection, was updated in early 2019 to address the benefits of using native landscape. The update included a requirement for new landscape projects to include at least 25% native vegetation. Native landscape plants were identified by referencing a few different Florida plant lists and guides.

Since the adoption of the update, staff and applicants have questioned how the 25% requirement should be calculated and which plant list or guide was best to follow. These questions have remained unanswered for about a year and a half. Landscape plans today show compliance with the 25% minimum, but there is no specificity on how the 25% is calculated and the plans usually do not show which list or guide was followed to delineate native versus non-native plants. These issues were presented to the Town Council last year and the matter was forwarded to the ORS Committee to review.

Staff made a presentation to the ORS Committee on July 1, 2021. The questions of how to calculate the 25%, which plant guide should be followed, and whether 25% was an appropriate amount of natives, were posed to a few landscape design professionals over the past year, and their responses were provided to ORS. A lengthy discussion occurred at the meeting and options were reviewed, but ORS did not find answers to the questions raised by staff and others. As a result, the matter went back to Town Council on August 10, 2021 to seek direction on how to resolve the open issues. The matter was deferred by the Town Council at that meeting until September 14, 2021. That delay provided an opportunity for ORS Committee consider and review the matter further at their September 2, 2021 meeting.

During their September 2, 2021 meeting, the ORS Committee again had a lengthy discussion on the native plant matter. The ORS Committee agreed at that meeting to recommend the following to the Town Council:

- Calculate the native plant requirement based upon the quantity of plants, not by the plant coverage.
- Increase to 35% the minimum amount of native plants in each of the following five categories: trees, palms, shrubs, ground cover and vines. Each of these categories would require a minimum of 35% native plants.
- Use the Institute for Regional Conservation (“IRC”), Natives for Your Neighborhood as the sole listing for native plants. This online list allows to filter by zip code.
- Use the Florida Invasive Plant Species Guide (“FLIP”) as the list for Category 1 and 2 invasive plants.

The Town Council again reviewed the matter at their September 14, 2021 meeting. The Council agreed with the recommendations made by the ORS Committee and asked staff to draft an ordinance to cover the recommended changes.

Staff drafted the ordinance to include these changes. The draft ordinance was reviewed by Skip Randolph for form and legal sufficiency. Ordinance No. 24-2021 was approved on First Reading at your October 12, 2021 meeting. It is ready for adoption on Second Reading at your November 10, 2021 meeting.

cc: Jay Boodheshwar, Deputy Town Manager
James Murphy, Assistant Planning, Zoning and Building Director
John Randolph, Town Attorney

ORDINANCE NO. 24-2021

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 66 NATURAL RESOURCE PROTECTION, AT ARTICLE I, IN GENERAL, SECTION 66-2, DEFINITIONS; AT ARTICLE IV, VEGETATION, DIVISION 1, GENERALLY, SECTION 66-212, PURPOSE AND INTENT; AT ARTICLE IV, DIVISION 3, PLANS, SECTION 66-285; AND AT ARTICLE IV, VEGETATION, DIVISION 5, REGULATIONS, SECTION 66-311; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Chapter 66, Natural Resource Protection, Article I, In General, Section 66-2, Definitions, is hereby amended by changing the definitions of “Native Plant Species” and “Pestilent Exotic / Invasive Species”, to read as follows:

“Native plant species shall be the plant species indigenous to the Town of Palm Beach, Florida region and found through the Institute for Regional Conservation (“IRC”), Natives for Your Neighborhood.” ~~ecological communities of South Florida, as indicated as native to South Florida by the University of Florida in the Atlas of Vascular Plants, or that can be scientifically documented to be native to South Florida.~~

Pestilent exotic/invasive species means species as identified by the Florida Invasive Plant Species Guide (“FLIP”)~~*Exotic Pest Plant Council's Invasive Plant List.*~~

~~*Pestilent exotic species means any specimen of Melaleuca (Melaleuca quinquenervia), Australian Pine (Causarina spp.), or Brazilian Pepper (Schinus terebinthifolius), regardless of size.”*~~

Section 2. Chapter 66, Natural Resource Protection, Article IV, Vegetation, Division 1, Generally, is amended at Section 66-212, Purpose and Intent, subsection (6), to read as follows:

“Sec. 66-212. - Purpose and intent.

It is the intent of the town to promote the health, safety and welfare of existing and future residents of the town by establishing minimum standards for the protection of natural plant communities, and the installation and continued maintenance of landscaping within the town, in order to:

(6) Eradicate Category I invasive exotic plant species and eradicate or control Category II invasive exotic plant species as listed on the most current Florida Exotic Pest Plant Council's List of Invasive Plant Species~~*Invasive Plant Species Guide (“FLIP”).*~~

Section 3. Chapter 66, Natural Resource Protection, Article IV, Vegetation, Division 3, Plans, is amended at Section 66-285, General, to read as follows:

"Sec. 66-285. - General.

(1) ~~At least 25-35 percent of all new required landscaping, in the form of trees, palms, shrubs, vines and ground cover plants, other than grass, shall consist of native vegetation. To determine appropriate native vegetation the Xeriscape Plant Guide by the South Florida Water Management District, or if available County or regional lists as amended may~~ Institute for Regional Conservation ("IRC"), Natives for Your Neighborhood, shall be used."

Section 4. Chapter 66, Natural Resource Protection, Article IV, Vegetation, Division 5, Regulations, Subdivision I, In General, is amended at Section 66-311, Prohibited Plants, Subsections (a) and (c) is removed, regarding Prohibited Species and Future Removal Requirements, to read as follows:

"Sec. 66-311. - Prohibited plants.

(a) ~~Prohibited species. The following plants have been shown to be~~ Plants identified as pestilent exotic species and shall not be installed as landscape material, and shall be removed from property as part of development and redevelopment activity, and prior to the issuance of a permit for said development and redevelopment activity," ~~or pursuant to the schedule and terms specified in subsection (c) of this section:~~

~~(c) Future removal requirements. In addition to the removal requirements set forth in subsection (a) above, a property owner shall remove or cause to be removed or eradicated the prohibited invasive non-native vegetation listed in subsection (a) above by January 1 of the year specified in the following table:~~

COMMON NAME	SCIENTIFIC NAME	YEAR
Old-World Climbing Fern	Lygodium microphyllum	2004
Air Potato Vine	Dioscorea bulbifera	
Melaleuca, —Punk Tree	Melaleuca quinquenervia	2006
Brazilian Pepper	Schinus terebinthifolius	2008
Carrotwood	Cupaniopsis anacardioides	
Earleaf Acacia	Acacia auriculiformis	2010
Schefflera	Schefflera actinophylla	2006
Australian Pine*	Casuarina spp.	2012*

COMMON NAME	SCIENTIFIC NAME	YEAR
Kudzu	<i>Pueraria montana var. lobata</i>	2008

~~* The 2012 date relating to the removal of the Australian Pine, *Casuarina* spp. shall only be applicable to Australian Pines which are within 500 feet of a county designated natural area described in subsection (d) below, i.e., the Palm Beach Island Sanctuaries. Upon removal of the prohibited and invasive non-native vegetation specified under this section, the property owner shall maintain the property free of such prohibited invasive non-native vegetation."~~

Section 5. 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 6. 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 7. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

Section 8. Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 12th day of October, 2021, and for second and final reading on this ____ day of _____, 2021.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie Lindsay, Council President Pro Tem

Julie Araskog, Town Council Member

Edward Cooney, Town Council Member

ATTEST:

Queenester Nieves, CMC, Town Clerk

Lewis S.W. Crampton, Town Council Member

Wayne Bergman

From: Amanda Skier <askier@palmbeachpreservation.org>
Sent: Friday, May 06, 2022 11:20 AM
To: James Murphy; Wayne Bergman
Cc: Susan Lerner; Aimee Sunny
Subject: Re: NATIVE PLANT LETTER TO THE EDITOR

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity *****

Good morning Wayne and James,

Thank you for sending along the letter. I have been speaking with multiple members of Town Council regarding this issue.

As far as the list is concerned, the easiest fix is to remove "Town of Palm Beach, Florida region" from the ordinance and replace it with "State of Florida." The IRC has a Natives for your Neighborhood Plant List on its website that is for the entire state: <https://www.regionalconservation.org/beta/nfyn/PlantList.asp>.

So far, I have had one landscape architect, Steve West, respond to the email that I sent two weeks ago. Everyone but Jorge agreed to participate. I compared Steve's list to the Natives for your Neighborhood Plant List. All can be found on this list except for one which is currently in the process of being added:

Palms:

Acoelorrhaphe wrightii - Paurotis Palm or Everglades Palm
Leucothrinax morrisii – Keys Thatch Palm
Rhapidophyllum hystrix – Needle Palm or Native Lady Palm
Roystonea regia - Royal Palm (In process)
Thrinax radiata - Florida Thatch Palm

Trees:

Clusia rosea - Pitch Apple
Cordia sebestena - Orange Geiger

Shrubs:

Conocarpus erectus sericeus - Silver Buttonwood
Chrysobalanus icaco 'Horizontal' – Beach Cocoplum
Ilex vomitoria – Dwarf Yaupon Holly
Peperomia obtusifolia - Baby Rubber Plant
Psychotria ligustrifolia – Bahama Coffee
Serenoa repens 'Cinerea' - Silver Saw Palmetto
Tripsacum floridana - Dwarf Fakahatchee Grass

Groundcovers and Vines

Gelsemium sempervirens – Carolina Jessamine
Lonicera sempervirens – Coral Honeysuckle
Mimosa strigillosa / Sunshine Mimosa

The IRC is the recognized local and regional authority. Natives for Your Neighborhood is a valuable educational tool that is unmatched by the other two lists suggested. As you both know, Florida-friendly is not the same as Florida native.

Regarding the categories, a compromise would be to eliminate the palm category. All other categories should remain in order to meet the intent of the ordinance. The Town Council members that I have spoken with agree.

As far as the percentage, there is room for compromise here as well. That being said, I defer to Town Council to decide what is appropriate.

I am happy to forward this on to members of the Town Council but wanted to share my thoughts with you first. I look forward to receiving your feedback once you have had a moment to review.

Kind regards,

Amanda Skier
President & CEO



Madame Mayor & Town Council

We, as the principal Landscape Architectural firms in Palm Beach, respectfully urge you to revise the native plant ordinance now in place so that it reflects the following points:

- Return to the 25% native requirement. The new 35% requirement is too high. We strongly feel that we can produce elegant results with the original percentage as well as create gardens that are truly reflective of our beautiful town.
- Remove the plant categories and return to the original formula of 25% overall native plants within a property. The plant category system unfairly raises the required overall percentage of native plants.
- Return to the true native list, which is ALL Florida natives and Florida friendly plants. The Florida Native Plant Society (FNPS) list and the University of Florida Extension website (IFAS) are the recognized authorities for study and use of native plants.

Thank you for your time and attention to this important matter.

Sincerely,

Jorge Sanchez

Mario Nievera

Keith Williams

Fernando Wong

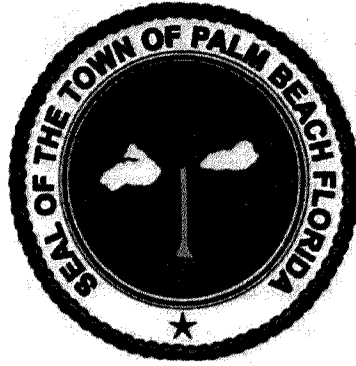
Tim Johnson

Claudia Visconti

Brian Vertesch

John Lubischer

Dustin Mizell



TOWN OF PALM BEACH

Minutes of the Development Review
Town Council Meeting
Held on May 11, 2022

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order May 11, 2022 at 9:34 a.m. On roll call, all elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Deputy Town Clerk Churney gave the invocation. Council President Zeidman led the Pledge of Allegiance.

III. COMMENTS OF MAYOR DANIELLE H. MOORE

The mayor did not have any comments at this time.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Zeidman reviewed the schedule for the day's meeting. She spoke regarding adding items under Any Other Matters, which included a discussion regarding sending native plants to ORS, a discussion about add-ons to construction projects and whether this item should be sent to ORS, as well as a discussion regarding the construction pamphlets distributed by Planning, Zoning & Building.

Council Member Araskog reminded landscapers not to blow leaves into the street.

Mayor Moore reminded that hurricane season was around the corner and encouraged citizens to begin preparations.

Council Member Araskog expressed appreciation to Police and Fire Rescue but wanted to make sure to acknowledge the Fire Rescue department for helping to save the people during the recent rip tide. She thanked all for their hard work and dedication.

Council Member Lindsay stated that the event occurred after hours, and many people came to offer assistance.

And At Article IV, Florida Building Code, Division 2, Florida Building Code Technical Amendments For Flooding, Section 18-244, Amendments; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Mr. Bergman provided background information on the two proposed ordinances. He stated the ordinances were mandated and written by the state. He read the title of the ordinance.

Council President Zeidman called for public comment. No one indicated a desire to speak.

Motion was made by Council Member Araskog and seconded by Council Member Cooney to approve Ordinance No. 009-2022 on first reading. Motion carried unanimously, 5-0.

2. Proposed Ordinance to Amend Chapter 50 of the Town Code to Modify the Language regarding Floodplain Management, to incorporate new FEMA and FL DEM requirements, and to acknowledge the Town's current CRS classification.

ORDINANCE NO. 010-2022 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 50, Floods, By Amending Article III, Definitions And Article IV, Flood Resistant Development, To Provide For Accessory Structures In Flood Hazard Areas And To Specify Elevation Of Manufactured Homes In Flood Hazard Areas; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Director Bergman read the title of the ordinance.

Council President Zeidman called for public comment. No one indicated a desire to speak.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay to approve Ordinance No. 010-2022 on first reading. Motion carried unanimously, 5-0.

XI. ANY OTHER MATTERS



1. Native Landscaping

Council Member Araskog spoke regarding a letter sent pertaining to the ordinance and requested that the Town Council refer this item back to the Ordinances, Regulations and Standards Committee. Town Council provided consensus to refer the ordinance back to ORS for further discussion.

2. Brochures

Council Member Araskog spoke regarding a previous discussion regarding sending out brochures pertaining to new construction regulations. She requested that these

ARTICLE IV. - VEGETATION

Footnotes:

--- (2) ---

Cross reference— *Vegetation generally, ch. 126.*

DIVISION 1. - GENERALLY

Sec. 66-211. - Findings.

It is found and determined that:

- (1) Landscaping promotes the health, safety and welfare of the community by absorbing carbon dioxide and returning oxygen to the air; precipitating dust and other articles in the air; providing wildlife habitat; providing soil stabilization; making the built environment more attractive; and helping to abate noise.
- (2) Proper landscaping and irrigation techniques can result in significant water conservation.
- (3) Landscaping provides a positive aesthetic value to the town.
- (4) Native shoreline ecosystems provide valuable shoreline stabilization and protection, wildlife habitat, and maintenance of environmental quality.
- (5) Pestilent exotic species constitute a nuisance in the town because:
 - a. They have spread rapidly to many areas of the town, displacing the diverse native Florida vegetation and associated wildlife habitat, and creating ecologically undesirable vegetative monocultures.
 - b. They can have adverse effects upon human health and pose safety hazards during high wind conditions.
 - c. The health, safety and welfare of the present and future residents of the town are benefited by minimizing degradation of the native ecological systems of the town.
- (6) Various plant species having aesthetic, ecological, educational, historical, recreational, economic or scientific value have been classified as endangered, threatened or species of special concern and should be protected.

(Code 1982, § 11.5-6)

Sec. 66-212. - Purpose and intent.

It is the intent of the town to promote the health, safety and welfare of existing and future residents of the town by establishing minimum standards for the protection of natural plant communities, and the installation and continued maintenance of landscaping within the town, in order to:

- (1) Promote health and safety through greater use of cultural and biological controls and reduced use of chemical pesticides for the management of pests, such as whitefly.
- (2) Promote the planting of appropriate native vegetation to encourage the presence of birds and wildlife and to eliminate or significantly reduce the need for fertilizers, pesticides and water

- (3) Improve air quality by promoting evapotranspiration and through the use of permeable land areas for aquifer and surface water filtration.
- (4) Maintain and improve the aesthetic appearance of the town through appropriate landscape design; thereby protecting and increasing property values throughout the community.
- (5) Improve the environmental quality of the town.
- (6) Eradicate Category I invasive exotic plant species and eradicate or control Category II invasive exotic plant species as listed on the most current Florida Invasive Species Council list.
- (7) Protect and encourage native shoreline and wetland ecosystems.
- (8) Offer special guidelines for the removal and control of those pestilent exotic species that are particularly deleterious to native shoreline environments.
- (9) Protect listed plant species that inhabit the town as referenced in section 66-312.
- (10) Reduce noise and pollution by designing landscaping to visually screen unsightly views and reduce noise impacts from major roadways and incompatible uses, through the filtering capacity of living trees and vegetation.
- (11) Provide a visual buffer between otherwise incompatible types of land uses.
- (12) Strengthen important vistas and reinforce desirable site design.
- (13) Promote energy conservation by encouraging cooling through the use of vegetation that creates shade.
- (14) Encourage the use of rain harvesting systems, such as cisterns, as a means to conserve water by reducing overwatering of landscapes.
- (15) Promote water conservation and lower water costs through the use of smart irrigation systems and planting native plants appropriate for the location.

(Code 1982, § 11.5-7; Ord. No. 21-2018, § 3, 4-9-19; Ord. No. 24-2021, § 2, 11-10-21)

Sec. 66-213. - Applicability.

This article shall apply to any new development or redevelopment. Provisions relating to tree removal or wetland protection apply to existing development, as noted.

(Code 1982, § 11.5-8)

Secs. 66-214—66-235. - Reserved.

DIVISION 2. - PERMITS

Sec. 66-236. - Application procedure for vegetation removal permit.

- (a) *Removal permits.* Vegetation removal permits, not sought in conjunction with building permits, shall be obtained by making application prior to removal, relocation or replacement to the building official or his designee, at least ten working days prior to the proposed date of removal.
- (b) *Circumstances justifying issuance.* Vegetation removal permits shall be issued in the following circumstances:

- (1) Where a tree, due to natural circumstances, is no longer viable, is in danger of falling, is too close to existing so as to endanger such structures, interferes with utility services, creates unsafe vision clearance, or constitutes a health hazard;
- (2) Where the affected vegetation will be relocated, replaced with a suitable substitute tree, or otherwise preserved, with the exception of mangroves, which are regulated elsewhere in this chapter; or
- (3) Where tree removal is part of a plan to restore or encourage native shoreline species, either on the coastal strand, as described in section 66-81 et seq., resolution number 37-89, or along Lake Worth, as described in article III of this chapter.
- (4) Where landscape buffers (plant material), 30 inches in height or greater and directly adjacent to any side, rear street-side or street-rear property line, are removed and result in the loss of opacity of the existing screening, approval from the architectural commission or landmarks preservation commission (whichever is applicable) for the removal of the landscape buffer or buffers must be obtained and a landscape removal permit is issued. In limited cases, administrative or "staff" level approval may be done when equal or greater replacement landscape material is proposed to replace the plant material removed, and thereby maintaining the landscape buffer or buffers opacity. If the landscape removal is done without town approval or without a landscape removal permit, the originally-approved plant material must be replanted.

(c) *Permit issuance and time limitations.* Upon approval of an application, the building official or his designee shall issue a permit. Permits shall expire and become null and void if work is not commenced within 90 days from the date of permit issuance.

(Code 1982, § 11.5-21; Ord. No. 14-2021, § 1, 7-13-21)

Secs. 66-237—66-260. - Reserved.

DIVISION 3. - PLANS

Sec. 66-261. - Plans required.

All site plans for new development and redevelopment shall be required to submit a landscape plan and irrigation plan to the architectural commission, or landmarks commission, as applicable. All plans shall be signed and sealed by a registered landscape architect, who shall guarantee that the plans meet all specifications of this chapter. The plans shall include a drainage statement by a professional engineer registered in the state that the landscape plan is not in conflict with the stormwater management plan.

(Code 1982, § 11.5-9; Ord. No. 21-02, § 6, 11-12-02)

Sec. 66-262. - Landscaping plan.

Landscaping plans should identify:

(1) Any historic or specimen trees located on the property.

(2) Any threatened or endangered vegetative species contained on the Florida Natural Areas Inventory's

"Special Plants List," the Florida Game and Fresh Water Fish Commission's "Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida," or a comparable list approved by the town planning, building and zoning department.

- (3) The location, size, botanical name, and common name of all existing vegetation four inches or larger in diameter on the property.
- (4) The location, species name, and common name of all proposed vegetation on the property.
- (5) The location and type of trees to be relocated or removed, and place of relocation if applicable.
- (6) All elements of an approved stormwater management plan applicable to the project, and a drainage statement by a professional engineer registered in the state that the landscape plan is not in conflict with the stormwater management plan.

(Code 1982, § 11.5-9(a); Ord. No. 15-01, § 6, 9-11-01; Ord. No. 21-02, § 7, 11-12-02)

Sec. 66-263. - Irrigation plans.

Irrigation plans shall include:

- (1) Layout of irrigation system and identification of components.
- (2) Explanation of relationship between plant groupings and type of irrigation used.

(Code 1982, § 11.5-9(b))

SecS. 66-264—66-284. - Reserved.

Sec. 66-285. - General.

- (1) At least 35 percent of all new required landscaping, in the categories of trees, palms, shrubs, and a combined category of vines and ground cover plants, shall consist of native vegetation. To determine appropriate native vegetation the Institute for Regional Conservation ("IRC"), Natives for Your Neighborhood, shall be used.
- (2) The hatracking of trees is prohibited; however pollarding is permitted.

(Ord. No. 21-2018, § 4, 4-9-19; Ord. No. 24-2021, § 3, 11-10-21)

DIVISION 4. - DESIGN REQUIREMENTS

Sec. 66-286. - Water conserving landscape design.

The following section shall be applicable to all new construction and substantial improvements.

- (1) *Required.* Landscapes shall be designed in accordance with water conserving landscape design elements set forth in subsections (2)—(5).
- (2) *Minimum landscaped open space.* Minimum landscaped open space shall be required as stipulated by the lot, yard and bulk regulations in the zoning code, chapter 134.
- (3) *Required vegetation.* The following vegetation is required. The nine principles of Florida friendly

landscaping shall be utilized.

a. *Lawns.*

1. If very drought tolerant grass is used, not more than 70 percent of the required landscaped open space shall be planted in lawn grass.
2. If moderate drought tolerant grass is used, not more than 60 percent of the required landscaped open space shall be planted in lawn grass.

(Information on Florida friendly drought tolerant grass can be found at:

<http://fyn.ifas.ufl.edu/ifaspubs.htm>.)

b. *Nonturfed areas.*

1. Nonturf areas shall be planted in mixes of trees, shrubs and ground covers.
2. Plants shall be grouped according to their water needs, and irrigated accordingly. At least 33 percent of the groupings shall be characterized by highly or moderately drought tolerant vegetation.

(Information for Florida friendly landscaping drought tolerant plants can be found at:

<http://www.floridayards.org/index.php>)

(4) *Irrigation standards.*

- a. Irrigation systems, either manual or automatic, may be used for the cultivated landscape areas.
- b. Irrigation shall be designed in zones that reflect necessary water regimes for specific groupings of vegetation.
- c. Sprinkler heads irrigating lawns or other high water requirement landscape areas shall be circuited so that they are on a separate zone from those irrigating trees, shrubbery or other reduced water requirement areas.
- d. Zones containing existing native plant communities and ecosystems maintained in a natural state do not require, and shall not have any additional irrigation water added in any form.
- e. In order to prevent overthrow, low trajectory heads or low volume water distributing devices shall be used when irrigating confined areas.
- f. No more than ten percent of spray radius shall be allowed onto impervious areas.
- g. Newly installed native plant areas may require irrigation during the establishment period. Water during this period shall be applied from a temporary irrigation system, a water truck, or by hand watering from a standard bib source.
- h. A temporary irrigation system shall be removed no later than 60 days after completion of the planting.

- (5) *Use of organic mulches.* When appropriate, a minimum of two inches of arsenic-free organic mulch shall be installed around each tree planting for a minimum of 18 inches beyond its trunk in all directions, including palms, and throughout all hedge, shrub, and groundcover plantings. Mulch shall be pulled a minimum of two inches away from trees and palms. Appropriate mulching material consists of by-

product or alternative mulches such as eucalyptus, pine needles, pine finds, oak leaf, Atlas grow soil, utility or other mulch as recommended by Florida Friendly Landscaping principles. The use of Cypress mulch, pine mulch, and dyed mulches is prohibited.

- (6) *Antitranspirants.* In order to reduce water loss through leaves during installation, antitranspirants shall be used and applied on all permitted landscape installation projects for a minimum period of 90-days from the date of installation.
- (7) *Irrigation plans.* Detailed irrigation plans shall be submitted as part of a building permit, and shall include:
 - a. Layout of irrigation system and identification of components.
 - b. Explanation of relationship between plant groupings and type of irrigation used.
 - c. Irrigation plans must provide 100 percent coverage of landscape areas.
- (8) *Control systems.*
 - a. The irrigation system shall be equipped with rainfall or moisture sensing devices to avoid operation during periods of sufficient moisture.
 - b. Automatically controlled irrigation systems shall be operated by an irrigation controller that is capable of watering high water requirement areas on a different schedule from low water requirement areas.
- (9) *Advanced irrigation systems.* This section shall be applicable to all new construction, substantial improvement and existing properties applying for a variance from the day-of-week watering restrictions imposed by the South Florida Water Management District (SFWMD), the City of West Palm Beach (WPB) or the Town of Palm Beach (town). Variances from the day-of-week watering restrictions does not relieve a property owner from complying with irrigation restrictions contained in a water shortage order or water emergency declaration issued by the SFWMD, WPB or the town.
 - a. Any person who purchases or installs an automatic landscape irrigation system on their property must properly install, maintain, and operate the system in accordance with manufacturer specifications, technology that inhibits or interrupts operation of the system during periods of sufficient moisture, and otherwise comply with the provisions of this section.
 - b. Evapotranspiration-based (ET) or moisture sensing-based controllers are required on any new automatic landscape irrigation system or controller installed subsequent to the date of adoption of this ordinance. In addition said systems are required on automatic irrigation systems when any principal structure on a property in the town is substantially altered.
 - c. Owners who have a properly operating evapotranspiration-based (ET) or moisture sensing controlled irrigation system shall be eligible for a variance from the day-of-the-week landscape irrigation restrictions set forth in section 122-78(b)(3) and (4) if the following requirements are met:
 - 1. The ET controller is approved by the Town of Palm Beach building official as meeting the Environmental Protection Agency (EPA) WaterSense® specification for weather-based controllers, the requirements of the Irrigation Association (IA) for climate-based controllers or moisture sensor-based controllers, or some comparable and applicable standard.
 - 2. The owner submits an application for variance to the Town of Palm Beach building official or his/her designee in accordance with section 122-81 along with an application fee in an amount adopted by the town council by resolution.

3. The owner posts a sign in a conspicuous location on the property to inform the public of the approval; the sign shall be provided by the town, the cost of which shall be payable to the town in an amount to be determined by the town council by resolution, upon approval of the variance.
4. No irrigation occurs between the daily restricted hours as may be set forth by the South Florida Water Management District and/or the City of West Palm Beach, which is subject to change at any time.
- d. The town shall maintain a database of all properties which have installed and maintained advanced irrigation systems in accordance with the requirements of this subsection, and which are exempt from the day-of-the-week irrigation restrictions set forth in section 122-78(b)(3) or (4).
- e. A variance granted from section 122-78(b)(3) or (4) based on the installation and operation of an advanced irrigation system does not relieve a property owner from complying with irrigation restrictions contained in a water shortage order or water emergency declaration issued by the South Florida water Management District, the City of West Palm Beach or the Town of Palm Beach.
- f. *Applicability.* This section shall apply to all licensed contractors within the jurisdiction of the town who install or perform work on automatic irrigation systems and to any person or entity which purchases or installs an automatic landscape irrigation system on their property.
 1. A licensed contractor or owner who installs or performs work on an automatic landscape irrigation system must test for the correct operation of each inhibiting or interrupting device or switch on the system. If such devices are not installed, or are not functioning properly, the contractor must install new devices or repair the existing ones and insure that each is operating properly before completing other work on the system.
 2. A licensed contractor or owner performing work on an automatic landscape irrigation system shall report systems that are not in compliance with this section, to code enforcement personnel in the police department. Failure of a contractor or owner to report non-compliant systems within five business days is punishable by fines as specified in the violations and penalties section of this section. A system that is repaired by the contractor and brought into compliance need not be reported.
 3. Regular maintenance and replacement of worn or broken moisture sensing equipment, such as soil moisture or rain sensors, is not a violation of this section, if such repairs are made within 30 days from the time non-compliance is noted.
 4. All contractors performing work on irrigation systems within the town shall be licensed or registered under F.S. ch. 489, or the Construction Industry Licensing Board of Palm Beach County and shall hold a municipally-issued license or business tax certificate that permits work on irrigation systems.
 5. A licensed contractor shall perform annually a maintenance review of the ET-controlled system and certify to the town on an annual basis that the ET-controlled system is properly operating and in compliance with this section. Owners failing to provide such annual recertification that the system is properly operating shall result in revocation of the variance from section 122-78(b)(3) or (4).

g. Violations and penalties.

1. Failure of any person who purchases or installs an automatic landscape irrigation system on their property managed by them, to properly install, maintain, and operate technology that inhibits or interrupts operation of the system during periods of sufficient moisture is a violation of this section, and such person shall be subject to a fine in accordance with section 2-439 of this Code. A person in violation of this section may be cited for each failure to be in compliance with this section.
2. Failure of an owner to report to town code enforcement officials automatic landscape irrigation systems that are not in compliance with this section, which require properly operating devices to inhibit or interrupt the operation of the irrigation system during periods of sufficient moisture, shall be a violation of this section, and such owner shall be subject to a fine in accordance with section 2-439 of this Code.

(Code 1982, § 11.5-10; Ord. No. 25-02, § 1, 11-12-02; Ord. No. 22-10, § 1, 7-13-10; Ord. No. 13-2013, § 2, 8-13-13; Ord. No. 21-2018, § 5, 4-9-19)

Cross reference— Water generally, § 122-31 et seq.

Secs. 66-287—66-310. - Reserved.

DIVISION 5. - REGULATIONS

Subdivision I. - In General

Sec. 66-311. - Prohibited plants.

- (a) *Prohibited species.* Plants identified as pestilent exotic species shall not be installed as landscape material, and shall be removed from property as part of development and redevelopment activity, prior to the issuance of a permit for said development and redevelopment activity.

- (1) Australian pine (*Casuarina* spp.).
- (2) Brazilian pepper (*Schinus terebinthifolius*).
- (3) Punk or paper tree (*Mezquite* *quincunervia*).
- (4) Old-world climbing fern (*Lygodium microphyllum*).
- (5) Air potato vine (*Dioscorea bulbifera*).
- (6) Carrotwood (*Cupaniopsis anacardioides*).
- (7) Earleaf acacia (*Acacia auriculiformis*).
- (8) Schefflera (*Schefflera actinophylla*).
- (9) Kudzu (*Pueraria montana* var. *lobata*).

- (b) *Exemptions.* An exemption or partial exemption from the prohibition of and removal requirements of Australian pines may be granted by the architectural commission or landmarks commission, as applicable, if the following conditions apply:

- (1) The Australian pine is used and maintained as a hedge. Failure to maintain the hedge will result in a code violation and removal of the hedge will be required.

- (2) The hedge or screen is located in an area where salt tolerant vegetation is required and where a viable aesthetic or organic option is not practical.
- (3) The Australian pine is not of the "sucker" type variety (*Casuarina glauca*).
- (4) The Australian pine is not directly adjacent to shoreline areas.
- (5) The Australian pine is maintained as part of the character of a landmarked district or vista such as the areas known as "Pine Walk" and "Wells Road."
- (c) Upon removal of the prohibited and invasive non-native vegetation specified under this section, the property owner shall maintain the property free of such prohibited invasive non-native vegetation.
- (d) *Prohibition officus benjamina and ficus nitida*. Due to extreme susceptibility of the invasive white fly pest and the consequent enforcement issues to require owners to treat or remove infested ficus benjamina and ficus nitida, no new planting of ficus benjamina or ficus nitida shall be allowed, with the exception of replacement plantings associated with a utility easement. The planting of appropriate native vegetation in a hedge or hedgerow is encouraged.
- (e) *Protection of natural area and incentives*. The county has recognized the Palm Beach Island Sanctuaries (R43 T43 S34; R43 T44 S03/10/15) located within the town as a natural area containing high quality ecosystems that are worthy of protection. The town hereby adopts for purposes of the protection of said natural area and for purposes of the regulation of the buffer area around said natural area those sections of the County Code known as the "Palm Beach County Countywide Prohibited Invasive Non-Native Vegetation Removal Ordinance" relating to the protection and regulation of these areas. Additionally, the town adopts the incentive program offered by the county as incorporated within the "Palm Beach County Countywide Prohibited Invasive Non-Native Vegetation Removal Ordinance."
- (f) *Enforcement*. Violations of this section shall be:
 - (1) Failure of a property owner to remove or eradicate prohibited invasive non-native vegetation in accordance with subsections (a) and (c) of this section.
 - (2) Failure of a property owner to maintain nonexempt properties free of prohibited invasive non-native vegetation in accordance with subsection (c) of this section.

The following are procedures which are to be followed for compliance and enforcement of this section.

- (1) Inspection of a parcel to determine the possible location of prohibited invasive non-native vegetation.
- (2) Preparation and provision of a notice informing the parcel owner of prohibited invasive non-native vegetation on the parcel and instructions for the removal or eradication of the vegetation and a timeframe provided for compliance. A follow up inspection is conducted.
- (3) In the event there is a failure to comply by the property owner after notice as prescribed, the failure to comply will be noticed for hearing before the town's code enforcement board.

(Code 1982, § 11.5-16; Ord. No. 19-03, § 1, 12-9-03; Ord. No. 23-2011, § 1, 10-11-11; Ord. No. 21-2018, § 6, 4-9-19; Ord. No. 07-2020, §, 4-15-20; Ord. No. 24-2021, § 4, 11-10-21)

Sec. 66-312. - Protected plants.

The following shall constitute protected plants within the town:

- (1) *Historic and specimen trees.* Specimen trees are afforded special status and protection in the town, as per s 126-56—126-58.
- (2) *Endangered and threatened plants.* Plants identified as endangered or threatened, according to the Florida Natural Areas Inventory, Florida Game and Fresh Water Fish Commission "Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida," or a comparable list approved by the town's planning, zoning and building department, shall be identified on the required landscaping plan.
- (3) *Protection.* Removal of designated historic and specimen trees, and vegetational species identified as endangered or threatened, shall be prohibited.
- (4) *Exceptions.*
 - a. Permission for removal of historic or specimen trees may be obtained from the town council or from the town manager if the tree constitutes a danger to public health, safety or welfare, or otherwise requires immediate removal.
 - b. When relocation is unavoidable, identified endangered or threatened species may be transplanted to an undeveloped portion of the site, or to an approved off-site location where preservation can be ensured.
- (5) *Management plan.* When historic or specimen trees or endangered or threatened plants are identified, a management plan shall be presented to the architectural commission, or landmarks commission, as applicable. The management plan shall include:
 - a. Methods to ensure preservation of the species, including buffer areas when appropriate.
 - b. Methods to ensure protection of species while construction activity is taking place on property.

(Code 1982, § 11.5-22)

Sec. 66-313. - Artificial turf—Locations.

In all zoning districts, artificial turf shall be reviewed and may be approved in accordance with the ARCOM Project Designation Manual, or Project Designation Guide for Landmarked and Historically Significant Building properties, and may be installed in limited areas of rear and side yards, or as a driveway accent in any yard, example to include strips of artificial turf placed between stone or concrete driveway pads. Artificial turf shall not be installed in any front yard areas, except as a driveway accent, or in any areas visible from the public right-of-way (regardless of whether it is in the rear or side yard). No artificial turf shall be installed in the public right-of-way.

(Ord. No. 23-2021 , § 2, 12-14-21)

Sec. 66-314. - Artificial turf—Standards.

All artificial turf shall comply with the following minimum standards:

- (a) Artificial turf installation shall be approved by either the Architectural Review Commission or the Landmarks Preservation Commission (depending upon the property designation) and all artificial turf installation requires a building permit.
- (b) Artificial turf is calculated as impervious surface and shall not count towards landscape open space.
- (c) Artificial turf material shall be lead-free.

Secs. 66-315—66-335. - Reserved.

Subdivision II. - Dunes

Sec. 66-336. - Vegetation restoration.

(a) *Findings.*

- (1) Coastal dunes provide the first defense against wind and waves.
- (2) Coastal dune vegetation, including salt tolerant plant species such as sea oats, railroad vine, sea rocket, and sea grapes, aid in stabilizing beach and dune systems and promoting wildlife habitat areas.
- (3) Coastal dunes have been degraded by beach erosion and pestilent exotic species.
- (4) Some damaged coastal dune habitat can be restored.

(b) *Purpose and intent.* It is the intent and purpose of the town to provide for restoration of native dune systems wherever such opportunities exist.

(c) *Requirements.* All new development or redevelopment adjacent to the Atlantic Ocean shall be required to restore dune habitat when feasible, as determined by the building official or his designee.

(d) *Guidelines for restoration feasibility determination.* Dune habitat shall be restored when:

- (1) Native vegetation has been degraded by pestilent exotics or means other than erosion of the beach; or
- (2) Significant beach and dune materials exist such that dune habitat can be restored and maintained.

(e) *Alteration of vegetation.* Dune restoration shall be in accordance with section 66-81 et seq. and resolution number 37-89, which provide for the alteration of dune vegetation.

(Code 1982, § 11.5-23)

Secs. 66-337—66-360. - Reserved.

Subdivision III. - Wetlands Protection

Footnotes:

— (3) —

State Law reference— *Wetlands protection, mangroves, F.S. § 403.9322 et seq.*

Sec. 66-361. - Mangroves—Prohibitions.

No person shall alter, allow or cause to be altered any mangrove in the town without first obtaining approval of a shoreline management plan and receiving a permit from the planning, zoning and building department.

(Code 1982, § 11.5-24(a))

Native Plant Regulations in Municipalities						
Municipality	Tree	Palm	Shrub	Ground Cover	Vines	Comments
Brevard County	50%		50%	50% ¹		
Miami-Dade County	30%	²	30%			
Key Colony Beach	50%	50%	50%	50%		
Village of Islamorada	75%	75%	75%	75%		
Indian River County	75%	75%	75%	75%	75%	Point System
Key West ³	70%	70%	70%	70%		
Miami	80%					
Pasco County						
Saint Lucie County	100%		52%			
West Palm Beach ⁴						Point System
Lee County ⁵	75%	50%	50%	50%		
Manatee County	30%	30%	30%	30%		
Martin County	50%/75%		50%	50% ⁶		
Marathon ⁷						
Broward County	50%	50%	50%	50% ⁸	50%	
Town of Palm Beach	35%	35%	35%	35%	35%	

Foot Notes:

- 1 Does not include sod
 - 2 No more than 30% of the required trees shall be palms
 - 3 Preserve 90% of hardwood hammocks.
 - 4 25 points for single-family dwelling unit and 50 points for all other development forms
- Preservation: 50% of open space percentage requirement though the onsite preservation of
- 5 existing native vegetation communities.
 - 6 Other than grass
 - 65% of the trees planted as mitigation for the removal of regionally important plant species
 - 7 trees shall be the same species as the trees removed.
 - 8 Excludes turf

TOWN OF PALM BEACH

Ordinances, Rules and Standards Committee on: October 17, 2022

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Maximum Landscape Height of Buffers and Separation Distances Between
Landscape Buffers and Neighboring Buildings

Presenter

Wayne Bergman, Director of Planning, Zoning & Building

ATTACHMENTS:

- **Memorandum dated October 5, 2022 from Wayne Bergman, Director of Planning, Zoning & Building**

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: October 17, 2022

To: ORS Committee Members

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



Re: Maximum Landscape Height of Buffers and Separation Distances Between Landscape Buffers and Neighboring Buildings

Date: October 5, 2022

GENERAL INFORMATION & BACKGROUND

As was evidenced in the 2020 review and discussion of 131 Seaview Avenue, the planting of new landscaping directly next to neighboring buildings can be problematic. The vegetation, including tall hedges, trees, and palms, can be the pathway for rodents (primarily rats) and Iguanas to access roofs and eaves.

This matter has been reviewed by the Town Council three times and sent to the ORS Committee twice for study.

Staff initially approached this matter with an ordinance to add new code regulations to Chapter 66, Natural Resource Protection, Article IV, Vegetation. However, the ORC Committee members requested that staff review existing regulations to see if this matter is already regulated under another Town Code. Staff reviewed Chapter 88, Property Maintenance Code, Sections 88-16 and 88-23, which deal with rodent and pest control, rodent harborage, and rodent infestation. These two sections did not provide the exact protection that staff, and the ORS Committee was looking for, but these two sections were easily modified to incorporate prohibitions on plantings and plant heights that provide for rodent or pest access onto adjacent buildings.

At the February 3, 2022 ORS Committee meeting, staff was given the direction to prepare a draft ordinance to amend the Property Maintenance Code (Chapter 88) to provide a prohibition on certain plants and plant heights that provide access for rodents and Iguanas onto or into neighboring buildings. Ordinance No. 007-2022 was drafted and presented to the Town Council in April of 2022, wherein it was approved on First Reading. However, at the May 10, 2022 meeting for the Second Reading, the ordinance was not adopted, and the matter was sent back to ORS for further review and possible amendment. The reasons included the ordinance language being too broad and limited clarity on the type of wildlife covered by the proposed regulations.

Attached: ORS Committee Memo, dated November 29, 2021
 Ordinance 007-2022
 Minute Excerpt from the May 10, 2022 Town Council Regular Meeting

TOWN OF PALM BEACH

Information for ORS Meeting on: February 3, 2022

To: Ordinances, Rules and Standards Committee

Via: Jay Boodheshwar, Deputy Town Manager

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



Re: Consider the Maximum Landscape Height of Buffers and Separation Distances
Between Landscape Buffers and Neighboring Buildings

Date: November 29, 2021

STAFF RECOMMENDATION

Staff requests that the ORS Committee consider the matter of possible prohibitions on plantings and plant heights that provide for rodent or pest access onto adjacent buildings.

GENERAL INFORMATION

As was evidenced in last year's review and discussion of 131 Seaview Avenue, the planting of new landscaping directly next to neighboring buildings can be problematic. The vegetation, including tall hedges, trees and palms, can be the pathway for rodents (primarily rats) and Iguanas to access roofs and eaves. The idea of a maximum landscape height and a minimum separation distance between newly installed planting and neighboring buildings could be reviewed, along with maintenance standards for the newly planted vegetation.

The matter was initially reviewed by the Town Council and sent to the ORS Committee for study. The matter was considered at your September 2, 2021 and October 5, 2021 ORS meetings. The matter was then briefly discussed at the October 12, 2021 Town Council meeting. The matter was last reviewed at the ORS Committee meeting held on November 8, 2021.

Staff has been approaching this matter with an ordinance to add new code regulations to Chapter 66, Natural Resource Protection, Article IV, Vegetation. However, at the November 8, 2021 ORS Committee meeting, it was requested that staff review existing regulations to see if this matter is already regulated under another Town Code. Staff reviewed Chapter 88, Property Maintenance Code. Sections 88-16 and 88-23 exist today, dealing with rodent and pest control, rodent harborage, and rodent infestation. These two sections do not provide the exact protection that staff and the ORS Committee was looking for, but these two sections could be easily modified to incorporate prohibitions on plantings and plant heights that provide for rodent or pest access onto adjacent buildings.

Staff suggests that language could be added to these sections stating, “Plants and plant heights that provide for rodent or pest access onto neighboring buildings shall be prohibited”, or similar language.

If this proposal is acceptable, staff can prepare an ordinance for Town Council consideration.

Also attached is a message from Steve & Martha Greenwald, with proposed ways to limit the distance to 4 feet, address affected neighboring buildings, limiting the regulations to midtown, and further limiting the regulations to neighbor requests. Some of all of these suggestions can be incorporated into a final ordinance.

Attached: Chapter 88, Sections 88-16 & 88-23
Email from Steve & Martha Greenwald, November 29, 2021

Sec. 88-16. - Exterior property areas.

(e)

Rodent harborage. Structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

Sec. 88-23. - Pest elimination.

(a)

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

Wayne Bergman

From: Steven Jeffrey Greenwald, Esq. <3102724@gmail.com>
Sent: Monday, November 29, 2021 8:02 AM
To: Julie Araskog; John (Skip) C. Randolph; Jay Boodheshwar; Wayne Bergman
Subject: Perhaps 4 feet on that "Adjacent Growth" proposed rule

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Hello Jay, Wayne, Julie: Just thinking that perhaps that proposed rule change on adjacent growth could be **4 feet** from soffits or structures *instead of 6 feet* in the wording. Maybe that shorter distance would make the proposed rule more amenable to the full council.

Also a limitation of something like this: *"this rule would be applicable only to a neighbor's structure that is very near the lot line or boundary."* Or some other description of zero lot line structures, such as: *"this rule is only applicable in the midtown area, where some part of a neighbor's adjacent structure is at or near their lot line or boundary."* These are just some examples. The wording can be worked on even better than these 2 samples.

Also, a few words in a proposed rule could be: *"... if an adjacent property owner requests"* may be helpful. Many adjacent owners may not care about a hedge situation. Landscapers and owners would get used to such a simple rule, much like they did for the whitefly rule.

Most neighbors would be reasonable as to their requests under this new rule, and only ask a neighbor for hedge cutting if it was necessary.

But the way things are now, with no town code on this at all, anyone can plant anything anywhere; hedge owners can simply ignore a friendly request even if a situation is bad, spawning boundary issues that take up too much time of police, staff, council, etc. That is why many were interested in this simple rule addition.

Feel free to share this email with anyone, the Rules Committee, Council, staff, Town published Backup, etc.

Kind regards, your neighbors

Steve and Martha Greenwald

Steven Jeffrey Greenwald, Esq.

Email address:

3102724@gmail.com

U.S.A. Telephone & voicemail:

561-310-2724

Mailing address: P.O. Box 3407

Palm Beach, Florida 33480 - U.S.A.

ORDINANCE NO. 007-2022

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 88, PROPERTY MAINTENANCE CODE, AT ARTICLE II, DEFINITIONS, SECTION 88-14, GENERAL DEFINITIONS; AND AT ARTICLE III, GENERAL REQUIREMENTS, SECTIONS 88-16, EXTERIOR PROPERTY AREAS, AND 88-23, PEST ELIMINATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Chapter 88, Property Maintenance Code, Article II, Definitions, Section 88-14, General Definitions, is hereby amended as follows:

*“Chapter 88 - PROPERTY MAINTENANCE CODE
ARTICLE II. – DEFINITIONS
Sec. 88-14. - General definitions.*

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

Section 2. Chapter 88, Property Maintenance Code, Article III, General Requirements, Sections 88-16, Exterior Property Areas, Subsection (e); and 88-23, Pest Elimination, Subsection (a); is hereby amended as follows:

*“ARTICLE III. - GENERAL REQUIREMENTS
Sec. 88-16. - Exterior property areas.*

(e) Rodent harborage. Structures and exterior property shall be kept free from rodent harborage and infestation. Plants and plant heights that provide for rodent, Iguana, or pest access onto neighboring buildings shall be prohibited. Where rodents are found, they shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

Sec. 88-23. - Pest elimination.

- (a) *Infestation. Structures shall be kept free from insect and rodent infestation. Plants and plant heights that provide for rodent, Iguana, or pest access onto neighboring buildings shall be prohibited. Structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation."*

Section 3. 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 4. 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 5. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

Section 6. 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 _____ of _____, 2022, and for second and final reading on this _____ day of _____, 2022.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie Lindsay, Council President Pro Tem

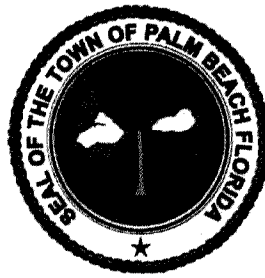
Julie Araskog, Town Council Member

ATTEST:

Edward Cooney, Town Council Member

Pat Gayle-Gordon, Acting Town Clerk

Lewis S.W. Crampton, Town Council Member



Please be advised that in keeping with a recent directive from the Town Council, meeting minutes will be in "summary" style. The meeting audio is available via the Town's website at www.townofpalmbeach.com

MINUTES OF THE TOWN COUNCIL MEETING HELD ON MAY 10, 2022

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting of Tuesday, May 10, 2022, was called to order at 9:33 a.m. in the Town Council Chambers. On roll call, all council members were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Acting Town Clerk Gayle-Gordon gave the Invocation and President Zeidman led the Pledge of Allegiance.

III. MODIFICATIONS TO THE AGENDA

The following modifications were made to the Agenda:

- 1) Addition of Item No. XII.C.4
Consideration of scheduling an Attorney/Client Session immediately following the Town Council meeting on May 10, 2022, in the Town Council Chambers, 360 South County Road, Palm Beach, Florida, to discuss the following matter: Palm Beach Hotel Condominium Association, Inc. v. Town of Palm Beach- Case Number 50-2020-CA-002757-XXXX-MB (AG). Attorney/Client Session Attendees: Mayor Danielle H. Moore; Town Council President Margaret A. Zeidman; Town Council President Pro Tem Bobbie Lindsay; Town Council Members Julie Araskog, Edward A. Cooney, Lewis S. W. Crampton; Town Manager Kirk Blouin; Town Attorneys John C. Randolph and Joanne M. O'Connor, and Pleasanton, Greenhill, Meek & Marsaa Court Reporters.
John C. Randolph, Town Attorney
- 2) Original item no. XII.C.4 is now item no. XII.C.5.
- 3) Item No. XII.B.3. should be retitled: Discussion Regarding Temporary COVID Seating Extension and Café Permits

IV. APPROVAL OF AGENDA

This item was heard out of order of the agenda.

2. Review of a Stop Work Order Due to Three Strike Rule at 310 Clarke Avenue. [Wayne Bergman, Director of Planning, Zoning and Building]

Motion was made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to defer this item to the May 11, 2022 Development Review Meeting. On roll call, the Motion passed unanimously.

3. Garbage Collection at Town Marina
TIME CERTAIN: 3:00 PM [Bobbie Lindsay, Council President Pro Tem]

This item was heard out of order of the agenda.

4. Noise Complaints Concerning Car Washing Activities in Residential Areas.
[Julie Araskog, Town Council Member]

This item was heard out of order of the agenda.

XIII. ORDINANCES

A. Second Reading

1. Proposed Ordinance to Amend Chapter 2 Article X Section 2-636 of the Town Code to Modify the Responsibilities of the Shore Protection Board

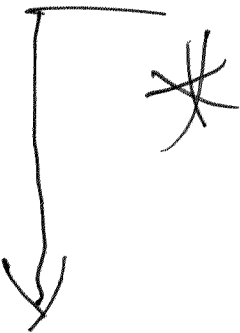
ORDINANCE NO. 006-2022 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 2, Article X, Section 2-636, Shore Protection Board; Providing for Severability, Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [H. Paul Brazil, P.E., Director of Public Works]

Town Attorney Randolph read the title of the ordinance.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to adopt Ordinance No. 006-2022 on second reading. On roll call, the Motion passed unanimously.

2. Proposed Ordinance to Amend Chapter 88 Articles II and III of the Town Code to Modify Hedge Heights and Eliminate Pests

ORDINANCE NO. 007-2022 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 88, Property Maintenance Code, at Article II, Definitions, Section 88-14, General Definitions; and at Article III, General Requirements, Sections 88-





16, Exterior Property Areas, and 88-23, Pest Elimination; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing an Effective Date. [Wayne Bergman, Director of Planning, Zoning and Building]

Town Attorney Randolph read the title of the ordinance.

Council Member Araskog expressed concern over language in the ordinance being too broad and requested that it be referred back to ORS.

Council Member Cooney expressed concern over the broadness of the language.

Council President Pro Tem Lindsay expressed concern over the language, as well and spoke regarding that while this ordinance began with iguanas, there there are also concerns with squirrels, rats and other wildlife.

Town Manager Blouin stated that this issue is not a great concern and that there are not any complaints at this time.

Discussion ensued regarding the proposed language changes in order to provide for enforcement.

It was consensus of the Town Council to refer this Ordinance to the Ordinances, Rules and Standards Committee for further review.

B. First Reading

1. Proposed Ordinance to Amend Chapter 42 Article V, Section 42-228 to Modify the Decibel level in Area 4 of the Town

ORDINANCE NO. 008-2022 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 42, Environmental at Article V, Noise at Section 42-228, Nonvehicular Noise Amending the Maximum Level, dba Measurement In Geographic Area 4 to be Consistent with the Measurements in Geographic Areas 1 And 3, I.E., 61 Decibels During the Day and 55 Decibels at Night; Providing for Repeal of Ordinances or Parts of Ordinances in Conflict Herewith, Providing for Severability; Providing for Codification; Providing an Effective Date.
[Nicholas Caristo, Chief of Police]

Town Attorney Randolph read the title of the ordinance.

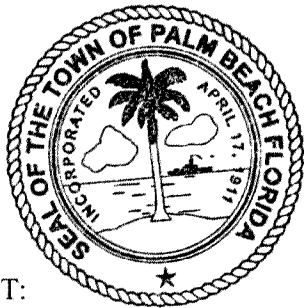
Motion was made by Council Member Araskog and seconded by Council Member Cooney to approve Ordinance No. 008-2022 on first reading. On roll call, the Motion passed unanimously.

XIV. ANY OTHER MATTERS

Discussion ensued regarding a discussion being added to Any Other Matters on the May 11, 2022 Development Review Meeting regarding native landscaping list and ordinance.

XV. ADJOURNMENT

Motion was made by Council Member Cooney and seconded by Council Member Araskog adjourn the May 10, 2022 Town Council meeting at 6:22 PM. On roll call, the Motion passed unanimously.



APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

6/14/2022
Date