



TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE -
SUBJECT TO
REVISION

ORDINANCES, RULES AND STANDARDS COMMITTEE MEETING

AGENDA

TOWN HALL
COUNCIL CHAMBERS - SECOND FLOOR
360 SOUTH COUNTY ROAD

Thursday, November 10, 2016
9:00AM

- I. CALL TO ORDER AND ROLL CALL
Bobbie Lindsay, Chair
Danielle H. Moore, Committee Member
- II. APPROVAL OF AGENDA
- III. COMMUNICATIONS FROM CITIZENS
- IV. REGULAR AGENDA
 - A. Old Business
 - 1. Proposed Modifications to Chapter 66, Including Smart Irrigation Regulations
(*Veronica Close, Assistant Director of Planning Zoning and Building*)
 - 2. Regulation of Internet-Based Ride Sharing Programs
(*Jay Boodheshwar, Deputy Town Manager*)
 - 3. Review of Drone Ordinance for Conflicts with New FAA Regulations and Permitting Requirements
(*Jay Boodheshwar, Deputy Town Manager*)

B. New Business

1. Potential Amendment of Town Code, Relative to Maintenance of Sidewalks
(*Jay Boodheshwar, Deputy Town Manager*)
2. Approve 2017 ORS Meeting Schedule
(*Jay Boodheshwar, Deputy Town Manager*)

V. ANY OTHER MATTERS

VI. ADJOURNMENT

PLEASE TAKE NOTE:

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

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

Memorandum

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

From: Jay Boodheshwar, Deputy Town Manager

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

Date: 11/7/2016

Re: Agenda Items for the November 10, 2016, ORS Meeting

This memorandum and its attachments serve as the backup material associated with the agenda for your ORS meeting on November 10, 2016, at 9:30am. Below is the list of agenda items and related exhibits, which provides background information for each matter.

Old Business

1. Proposed Modifications to Chapter 66, Including Smart Irrigation Regulations *(Veronica Close, Assistant Director of Planning Zoning and Building)*

Ms. Close will review the sections within Chapter 66 of the Town Code recommended for modification, including the section pertaining to smart irrigation. Please see Exhibit A for details regarding this item.

2. Regulation of Internet-Based Ride Sharing Programs *(Jay Boodheshwar, Deputy Town Manager)*

Mr. Boodheshwar will recap previous discussions and actions by ORS relative to vehicles for hire, including internet-based ride sharing programs. Please see Exhibit B for details regarding this item.

3. Review of Drone Ordinance for Conflicts with New FAA Regulations and Permitting Requirements

(Jay Boodheshwar, Deputy Town Manager)

Town Attorney, Skip Randolph, has reviewed the ordinance (08-2016) adopted earlier this year to regulate use of drones, and has provided the attached memorandum detailing his opinions and suggestions for moving forward. Please see Exhibit C for details regarding this item.

New Business

1. Potential Amendment of Town Code, Relative to Maintenance of Sidewalks

(Jay Boodheshwar, Deputy Town Manager)

Mr. Boodheshwar will present concerns relative to the application of Section 106-156 of the Town Code. Please see Exhibit D for details regarding this item.

2. Approve 2017 ORS Meeting Schedule

(Jay Boodheshwar, Deputy Town Manager)

Mr. Boodheshwar will present suggested 2017 meeting dates for the ORS Committee. Please see Exhibit E for details regarding this item.

Attachments

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: November 10, 2016

To: Ordinances, Rules, & Standards Committee

Via: Jay Boodheshwar, Deputy Town Manager

From: Veronica W. Close, Assistant Director, PZB Department

Re: Chapter 66 Review – Landscaping and Smart Irrigation Changes

Date: September 29, 2016

STAFF RECOMMENDATION

Staff recommends approval of proposed revisions to Chapter 66 Article I (Definitions) and Article IV Vegetation as reviewed and modified by the Ordinance, Rules and Standards Committee.

GENERAL INFORMATION

In May of this year, ORS reviewed the most recent modifications to the vegetation (landscape) provisions in Article IV of Chapter 66 proposed by Staff. At that meeting, ORS requested additional review and changes by Staff.

Attached (ATTACHMENT A) are proposed revisions to Chapter 66, Article I (Definitions) and Article IV Vegetation. The changes since the last meeting are highlighted in yellow, to enable you to see what sections have been changed.

In particular, Staff has increased the proposed minimum number of shade/canopy trees to one (1) per 2,500 square feet of lot area in this version, although a comment has been added regarding this requirement. Staff is also proposing a minimum of 20% of landscaping be native vegetation. Both Broward and Martin Counties have a similar provision; Broward's requirement is 50%, and Martin County requires a minimum of 25%.

Staff is also proposing a substantial reduction in the requirements related to advanced irrigation systems (ATTACHMENT B). We are also proposing the substitution of the word 'waiver' for the word 'variance', currently used in these provisions. The perception is that the word waiver is a more customer-friendly term, without the onerous connotations of the word 'variance'. Staff has consulted with Doug Terry of our Public Works Department, who was instrumental in working with the South Florida Water Management District on the original drafting, and he has worked with PZB on the revised draft being presented.

Staff continues to review Articles II and III related to dunes, and County provisions related to invasive species, and will be presenting these items at a later date.

EXHIBIT A

Please feel free to contact me should you have any questions on this version.

ATTACHMENTS

cc: Skip Randolph, Town Attorney
Douglas Terry, Public Works Water Resources Division Manager
John S. Page, Director of Planning, Zoning & Building
John Lindgren, Planning Administrator

Chapter 66 - NATURAL RESOURCE PROTECTION⁽¹⁾

ARTICLE I. - IN GENERAL

Sec. 66-1. - Generally.

(a) Purpose and intent.

- (1) It is the intent of this chapter to ensure that proposed development is consistent with the town's comprehensive plan.
 - (2) The purpose of this chapter is to establish those resources or areas of a development site that must be protected from harmful effects of development.
- (b) Relationship to other requirements. In addition to meeting the requirements of this chapter and other applicable town regulations, development plans shall comply with all applicable federal, state, county, and water management district regulations relating to natural resource protection.
- (c) Compliance with subdividing land. Each lot of a proposed subdivision must include a site suitable for constructing a structure in conformity with the standards of these requirements.

(Code 1982, § 11.5-1)

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:

Alter or alteration of stormwater systems means work done on a stormwater management system other than that necessary to maintain the system's original design and function.

Alter or alteration of vegetation means anything other than trimming of vegetation, including but not limited to, trampling, crushing, breaking, digging up, or excessive cutting of roots, stems, or branches, to cut, trim, remove, defoliate, or otherwise destroy or disturb by any means, leaves, limbs, stems, roots, or other plant parts, dead or alive.

Antitranspirant means a protective coating, generally applied to plant materials prior to or immediately after transplanting, that reduces water loss through the leaf surface.

Buffer, perimeter landscape is an area of flat ground at grade or bermed land which is set aside along the perimeters of a parcel of land in which landscaping is required to provide an aesthetic transition between adjacent plots to eliminate or reduce adverse environmental impact, and incompatible land use impacts.

Cistern means an underground container that is used for collecting and storing rainwater.

Clear trunk wood ~~when referring to palms~~ means grey wood and sheath, boot, nut or other growth above the grey wood but does not include the fronds.

Cultivated landscape area means planted areas that are frequently maintained by mowing, irrigating, pruning, fertilizing, etc.

Curb means Type D or Type F curbing that border along the edge of a roadway, path, etc. typically constructed of concrete which may perform any one or more of the following functions:

- (A) forms a structural confinement of the road's edge, parking island and medians;
- (B) may be raised to prevent vehicular traffic from leaving the road surface; and
- (C) provides a channel to collect and direct rainfall runoff from the road surface.

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

Detention means the collection and storage of surface water for subsequent gradual discharge.

Dune means a hill or ridge of windblown sand and marine deposits formed by action of the wind and water, often stabilized by vegetation indigenous to this formation.

Erosion and sediment control plan means a plan for the control of soil erosion, sedimentation of waters and sediment related pollutants, and stormwater runoff resulting from land disturbing activity. The town may require the party responsible for carrying out the plan to submit monitoring reports, as deemed necessary, to determine whether the measures required by the approved plan are being properly performed.

Essential element means any element of a landscape plan which is determined by either the Architectural or Landmark Preservation Commission as being mandatory and upon which an approval is predicated. Changes to essential elements cannot be made without approval from the respective Commission. Examples of essential elements include, but are not limited to, buffers, screening, trees, and palms.

Grey wood and clear wood means the portion of a palm trunk which is mature hardwood measured from the top of the rootball to the base of the green terminal growth, sheath, nut or boot. Refer to Sec. 66-284 Diagram A.

Ground cover means plants, other than turf grass, normally reaching an average maximum height of not more than 24 inches at maturity.

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.

Impervious surface means a surface that has been compacted or covered with a layer of material so that it is highly *resistant* to infiltration by water. It includes but is not limited to semi-impervious surfaces such as compacted clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

Irrigation system means a permanent, artificial watering system designed to transport and distribute water to plants.

Landscape/landscaping means the following:

(A) When used as a noun, this term shall mean living plant materials such as beautification strips, floral installations, hedges, sod, grasses, groundcover, shrubs, vines, trees or palms and nonliving durable materials commonly used in environmental design such as, but not limited to, walls or fences, aesthetic grading or mounding, but excluding pavers, paving, artificial turf, turf block, rocks and structures.

(B) When used as a verb, this term shall mean the process of installing or planting materials commonly used in landscaping or environmental design.

Landscaped open space means open space which is covered and maintained with natural growth in a permeable soil.

Land disturbing activity means any land change that may result in soil erosion from water or wind and the movement of sediments and sediment related pollutants in waters, including but not limited to clearing, grading, excavating, transporting and filling of land.

Mangroves means any specimen of *Avicenna germinans* (black mangrove), *Laguncularia racemosa* (white mangrove), *Rhizophora mangle* (red mangrove), and *Conocarpus erectus* (buttonwood mangrove), dead or alive, regardless of size.

Moderate drought tolerant means vegetation that requires supplemental irrigation during extreme dry periods to maintain attractive appearance.

Mulch means nonliving organic, 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.

Multi-trunk tree is a tree that has a minimum of three trunks with no more than five trunks of equal diameters originating from the ground and with angles no greater than forty-five (45) degrees with diameter of at least 1 ½ inches measured at DSH

Native habitat means habitat that predominantly consists of or is used by those communities of plants, animals, and other flora and fauna which occur indigenously on the land, in the soil, or in the water.

Native plant community is a natural association of plants dominated by one or more prominent native plant species, or a characteristic physical attribute as indicated by the Town of Palm Beach.

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.

Native shoreline vegetation means vegetation that occurs indigenously on the land, in the soil, or in the water.

Opaque: Obscure as to be visually unintelligible.

Overall height of a tree means the height measured from the ground to the bend of the topmost branch of the tree. Overall height of palm means the measurement from the ground to the bend of the topmost frond.

Pestilent exotic species means any specimen of Melaleuca (Melaleuca quinquenervia), Australian Pine (Causarina spp.), or Brazilian Pepper (Schinus terebinthifolius), or other species referenced elsewhere in this chapter, regardless of size.

Planting means the placing on or setting into the ground of live plant material.

Planting soil/topsoil means a medium composed of equal portions of sand and muck. Palm planting soils means a medium composed of no more than 80 percent sand and remainder soil consisting of muck.

Prop roots means the structures originating below the lowest limbs of red mangroves, and which are also known as stilt roots.

Rainwater harvesting system means an active (e.g. cisterns) or passive system (e.g. rain barrels) designed to collect stormwater as a means of meeting water demands and reducing runoff and pollutant load.

Rate means volume per unit of time.

Removal means to relocate, cut down, remove, or in any other manner destroy or cause vegetation to be destroyed.

Retention means the collection and storage of runoff without subsequent discharge to surface waters.

Runoff coefficient means ratio of the amount of rain that runs off a surface to that which falls on it; a factor from which runoff can be calculated.

Sediment means the mineral or organic particulate material that is in suspension or has settled in surface waters or groundwaters.

Sediment related pollutants means substances such as nutrients, pesticides, pathogens, and organic materials that are transmitted with, or in association with, sediment.

Shrub means a self-supporting, woody plant full to the ground with three or more branches produced from the ground which could be maintained in a healthy state to the height indicated on the landscape plans.

Structure means anything constructed or erected, except for fences, the use of which requires any type of permanent location on the ground or attached to something having a permanent location on the

ground, and shall include but not be limited to signs, walkways or types of construction with interior surfaces not normally accessible for human use.

Substantial improvement means any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a one-year period in which the cumulative cost equals or exceeds 50 percent of the market value of the structure prior to the improvement. The market value of the building should be:

- (1) The appraised value of the structure prior to the start of the initial repair or improvement, or
- (2) In the case of damage, the value of the structure prior to the damage occurring.

This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been pre-identified by the code enforcement official and which are solely necessary to assure safe living conditions.

Surface water means water above the surface of the ground whether or not flowing through definite channels.

Temporary irrigation system is one which is not to be supplied by buried polyvinyl chloride (PVC), polyethylene (PE), copper tubing or any other direct buried piping.

Tree means any living, self-supporting woody perennial plant, together with its root system, growing upon the earth, usually one trunk or multi-trunk with diameter of at least 1 ½ inches measured at DSH.

Tree, dicotyledonous (Dicot) means a tree having a woody stem, branches, and leaves with net venation and having a separate, distinct outer bark which can be peeled from the tree.

Tree, shade/canopy means a tree which generally grows to an overall height of 30 feet or greater and which provides significant shade/canopy.

Tree, monocotyledonous (Monocot) means a palm or tree having fronds with parallel venation and no true woody bark.

Trim or trimming of vegetation means to cut branches, twigs, limbs, and foliage, but does not mean to remove, defoliate, or destroy. Trimming does not include the cutting of prop/aerial roots.

Turf means continuous plant coverage consisting of grass species suited to growth in the county.

Untrimmed mangrove means a mangrove that has not been trimmed over two successive growing seasons.

Vegetation means plant life that includes but is not limited to trees, palms, shrubs, groundcover, vines, and turf.

Vehicular encroachment is any protrusion of a motor vehicle outside of the boundaries of a vehicular use area into a landscape area.

Vehicular use area (VUA) means an area used for loading, circulation, access, storage, parking, or display of any type of vehicle, boat, or construction equipment whether self-propelled or not.

Very drought tolerant means vegetation that can survive without supplemental irrigation after establishment.

Vine means any plant with a long, slender stem that trails or creeps on the ground or climbs by attaching itself on a support.

Wetlands means hydrologically sensitive areas that are identified by being inundated or saturated by surface water or groundwater with a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands shall also be defined as those areas within the regulatory jurisdiction of the department of

Commented [VC1]: In response to a question: The zoning code considers a "wall" as a structure.

Commented [VC2]: Martin County has this expanded definition of shade tree: "*Shade tree*: Any self-supporting woody plant of a species, deciduous or nondeciduous, that is generally well-shaped, well-branched, and well-foliated which normally grows to an overall minimum height of 35 feet with a minimum average mature crown spread of 30 feet, and which is commonly accepted by local horticultural and arboricultural professionals as a species which can be expected to survive for at least 15 years in a healthy and vigorous growing condition over a wide range of environmental conditions."

environmental regulation pursuant to F.S. ch. 403 and F.A.C. rules 17-3, 17-4, and 17-12. Wetlands generally include swamps, marshes, bogs and similar areas.

Weather based irrigation. ~~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.

Window means a visual corridor through vegetation between upland properties and the waterfront.

(Code 1982, § 11.5-2; Ord. No. 13-2013, § 1, 8-13-13)

Cross reference— Definitions generally, § 1-2.

Sec. 66-3. - Enforcement and penalties.

- (a) Generally. Unless otherwise provided, violations of this chapter are punishable as follows:
- (1) Any person who violates any provision of this chapter shall be punished as provided in section 1-14.
 - (2) Each individual mangrove unlawfully altered under the provisions of this chapter shall constitute a separate offense.
 - (3) Violators may also be prosecuted under the provisions of chapter 2, article V of this Code, relating to town code enforcement.
 - (4) In addition to other penalties provided by law, appropriate reforestation, as approved in a shoreline management plan, shall be required for violation of this chapter.
 - (5) No development approvals shall be issued to any violators of this chapter until the violation has been determined to be resolved by the planning, building and zoning department.
 - (6) No alteration shall be permitted for five years on mangroves that have been planted to abate a violation of this chapter.
 - (7) The selection of any of the above penalties shall not preclude the town from seeking relief in the circuit court of the county, by way of injunction or other relief.
- (b) Payment of costs. Violators of this section shall pay for all costs to the town for the review of any reforestation or other mitigation plan implementation conducted by the town.

(Code 1982, § 11.5-24(f), (g))

Secs. 66-4—66-35. - Reserved.

ARTICLE II. - SHORELINE MANAGEMENT PLAN

Sec. 66-36. - Findings.

The town recognizes the following environmental values of native shoreline habitat along Lake Worth:

- (1) Native wetland shoreline vegetation:
 - a. Helps to protect the shoreline against erosion.
 - b. Provides habitat for a diverse community of plants and animals, including species listed by the state as endangered, threatened, and of special concern.
 - c. Plays a fundamental role in estuarine nutrition by producing concentrations of organic matter that is utilized by marine organisms within the estuarine food web.
 - d. Provides a nesting and resting ground for species of migratory birds.
 - e. Is aesthetically appealing and can be reasonably incorporated as an asset into the landscaping of waterfront residences.
- (2) Certain pestilent exotic vegetative species have spread rapidly in the town, displacing and degrading native vegetation and creating ecologically undesirable monocultures.
- (3) Upland areas directly adjacent to shorelines can degrade natural shoreline communities when they contain pestilent exotic species with invasive qualities.
- (4) When placed along existing bulkheaded shores, riprap provides valuable habitat where there was none before by acting as a rocky substrate for shoreline vegetation and other shoreline organisms.

(Code 1982, § 11.5-36)

Sec. 66-37. - Purpose and intent.

- (a) It is the purpose and intent of this article to prevent degradation or loss of native Lake Worth shoreline habitat, and to encourage restoration and improvement of degraded habitat through programs of exotic removal and planting of beneficial native vegetative species.
- (b) This article should be used in conjunction with the vegetative provisions of this chapter, article IV.

(Code 1982, § 11.5-37)

Sec. 66-38. - Priorities for shoreline land use.

When reviewing applications for rezoning or amendments to the town's comprehensive plan, shoreline land use shall have the following priorities:

- (1) Water-dependent uses such as production or protection of fish, shellfish and wildlife; protection or conservation of coastal and natural resources; recreation, public access, navigation and water-dependent utilities; provided they have no significant adverse impact upon the land, waters or adjacent land uses.
- (2) Water-related or water-enhanced uses such as recreation and water-related utilities.
- (3) Scenic waterfront communities.
- (4) Uses that are not water-dependent or water-related that do not result in a diminution of coastal resources, and that are compatible with existing or committed uses in the town.

(Code 1982, § 11.5-81)

Sec. 66-39. - Requirements.

A shoreline management plan is required whenever:

- (1) Alteration or removal of mangroves is requested; or
- (2) Mangroves have been altered or removed in violation of this chapter.

(Code 1982, § 11.5-38)

Sec. 66-40. - Shoreline management plan.

The shoreline management plan shall include:

- (1) A survey of the shoreline area showing the location and identification, by common and species names, of all vegetation. The mapped area shall include the intertidal area as well as the area 15 feet upland of the mean high tide line.
- (2) A map showing proposed alterations.
- (3) A map showing proposed mitigation.
- (4) A written description of the proposed alteration and the proposed compensation and/or mitigation.
- (5) A time schedule for requested activity, including commencement date of alteration and completion date of alteration.

(Code 1982, § 11.5-39)

Sec. 66-41. - Standards.

No alteration of native shoreline communities along Lake Worth shall occur without provision of some compensatory benefit to the shoreline habitat on the property as set forth in section 66-42.

(Code 1982, § 11.5-40)

Sec. 66-42. - Compensatory benefits.

- (a) Inclusion. Compensatory benefits shall include one or more of the following:
- (1) Replacement of pestilent exotic species in the shoreline area with native shoreline vegetation;
 - (2) Planting native shoreline vegetation in unvegetated areas; or
 - (3) Placement of riprap along bulkheaded shorelines and vegetating the riprap with mangroves.
- (b) Exemptions. Applicants with shorelines more than 85 percent vegetated with mangroves or other native wetland shoreline vegetation, and are not degraded by the presence of exotic species, shall be permitted to trim presence of exotic species, shall be permitted to trim windows without compensatory measures, but must meet the other requirements of this chapter.

(Code 1982, § 11.5-41)

Sec. 66-43. - Mangrove trimming.

Trimming of mangrove windows for visual access is permitted under the following conditions:

- (1) No more than 20 percent of naturally vegetated shoreline area may be trimmed as windows.
- (2) Window areas must be established in the management plan. Once established, window areas may be maintained as part of an approved shoreline management plan.
- (3) Established window areas may not be moved without the authorization of the town building official or his designee.
- (4) An area twice the area of the window shall be restored by one or more of the methods described in section 66-42.
- (5) Nonwindow areas shall be left untrimmed.

(Code 1982, § 11.5-42)

Sec. 66-44. - Mangrove removal.

Mangrove removal must meet the following requirements:

- (1) Mangrove removal must meet all the conditions of this chapter.
- (2) When total removal is requested, the applicant must provide a mitigation strategy. This strategy must include, at a minimum:
 - a. Replanting of not less than three times the total land area proposed for alteration at the following mitigation rates: 4:1 for forested wetlands; 2:1 for herbaceous wetlands.
 - b. Description of species and spacing.
 - c. The location of the reforestation, its elevation, and all surrounding vegetation.
 - d. A performance bond guaranteeing the success of the reforestation.

- (3) Mangroves used for reforestation purposes shall be grown in pots no smaller than three gallons, have no fewer than two lateral branches, and be a minimum of four feet in height at the time of planting.
- (4) No alteration shall be permitted for five years for mangroves that have been planted to abate a violation of this chapter. Otherwise, planted mangroves may be altered after they reach a height of six feet or higher.
- (5) Salt marsh vegetation may be used in high energy areas in front of mangrove plantings, as part of required mitigation.

(Code 1982, § 11.5-43)

Sec. 66-45. - Phasing.

Phasing is encouraged for shorelines with extensive exotic invasion. Time periods and precise activities shall be specified.

(Code 1982, § 11.5-44)

Sec. 66-46. - Removal of pestilent exotics.

- (a) Removal must be arranged so as to prevent damage to adjacent native ecosystems whenever possible.
- (b) An herbicide approved by the town planning, building and zoning department may be used for Brazilian pepper when it is applied by a qualified professional.

(Code 1982, § 11.5-45)

Sec. 66-47. - Maintenance.

Property owners are responsible for maintenance of vegetation as specified in the management plan.

(Code 1982, § 11.5-46)

Secs. 66-48—66-80. - Reserved.

ARTICLE III. - SAND AND DUNE REMOVAL OR ALTERATION

DIVISION 1. - GENERALLY

Sec. 66-81. - Definitions.

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

Alteration means any removal, addition, or moving of sand, and/or any removal or addition of vegetation of any kind, either by way of planting or transplanting such vegetation, destruction of such vegetation, or the pruning or cutting of vegetation.

Crest of the existing dune line means the highest point in elevation of the primary natural dune.

Dune means a natural hill or ridge of windblown sand and marine deposits formed by action of the wind and water, often stabilized by vegetation indigenous to this formation, including but not limited to sea

oats, herbs, woody vegetation, and other growth common to the beach area adjacent to the coastline. (See Primary natural dune.)

Excavation means removal of soil, sand or vegetation by the process of digging, scooping or hollowing out.

Materially altered means any construction, excavation or building that has an adverse effect upon the ecological integrity of the dune seaward of an existing seawall, the control of beach erosion, hurricane protection, coastal flood control, the shoreline, and/or offshore deposits of sand.

Motor vehicle means any self-propelled wheeled conveyance.

Primary natural dune means the hill or ridge of wind-blown sand located furthest east (seaward). (See Dune.)

Structure means anything constructed or erected, except for fences, the use of which requires any type of permanent location on the ground or attached to something having a permanent location on the ground, and shall include but not be limited to signs, walkways or types of construction with interior surfaces not normally accessible for human use.

(Code 1982, § 6-36(b))

Cross reference— Definitions generally, § 1-2.

Sec. 66-82. - Motor vehicles.

No person shall drive any motor vehicle on, over or across any sand dune, except when authorized in advance by the town's building official to traverse a specific portion of dune in the performance of town-approved activities.

(Code 1982, § 6-36(k))

Cross reference— Traffic and vehicles, ch. 118.

Sec. 66-83. - Beaches; removing sand or earth.

It shall be unlawful for any person to take or remove from the ocean beach within the limits of the town any sand or earth.

(Code 1982, § 13-11)

Sec. 66-84. - Public nuisances.

Any activity subject to the requirement to obtain a class I, II or III permit as set forth in section 66-123 conducted in violation of the provisions of this article is declared to be a public nuisance. Any such violation is subject to the penalty provisions set forth in this article. In addition, the town may require site restoration and/or mitigation of the violation's impact in a manner determined by the town to be appropriate for the site, type and magnitude of violation. If such restoration and/or mitigation is not accomplished within a reasonable time as directed, the town may enter the property and accomplish the restoration and/or mitigation at its own expense, and the costs shall become a lien upon the property of the upland owner upon which the violation occurred.

(Code 1982, § 6-36(l))

Sec. 66-85. - Existing structures and previously developed properties.

The provisions of this article shall not apply to property located in the beach zoning district and structures existing or under construction prior to the effective date of the ordinance from which this section was derived in all group R, residential zoning districts; however, such existing structures and those structures under construction, once complete, shall not be materially altered as defined in section 66-81.

(Code 1982, § 6-36(m))

Sec. 66-86. - Appeal.

- (a) Appeals to the town council may be taken by any person aggrieved or by any officer, board or bureau of the town affected by any decision of an administrative official under any provision of this article. Any person appealing any decision of an administrative official shall make such appeal within 30 days after rendition of the order, requirement, decision or determination from which such appeal is taken, or the right to appeal shall be barred. Such appeal shall be in writing to the town council with ten copies thereof filed with supporting facts and data with the building official. Appeals shall be accompanied by proper exhibits, which shall be timely filed, and shall include plans, documents and other materials to adequately depict and support the appeal. Upon receipt of the appeal:
 - (1) The building official shall forthwith examine such appeal and endorse his recommendation thereon together with all documents, plans, papers or other materials constituting the record upon which the action appealed from was taken.
 - (2) All appeals will be heard at regular meetings of the town council unless otherwise ordered by the town council.
 - (3) Postponement requests for deferred action on any appeal will be granted for one month only (or the next succeeding regular town council meeting, if that should occur on a different date) except for good cause shown.
 - (4) When an appeal is deferred or postponed because the town council determines that additional professional advice is necessary, the expense of obtaining such additional professional advice shall be borne by the appellant. The person to render or give such additional professional advice shall be selected by mutual agreement of the town and the appellant.
- (b) An appeal to the town council stays all work on the premises that is in furtherance of the action appealed from unless the official from whom the appeal was taken shall certify to the town council that, by reason of facts stated in the certificate, a stay would cause imminent peril to life and property, in which case, proceedings or work shall not be stayed except by a restraining order, which may be granted by the town council or by a court of competent jurisdiction on application, on notice to the officer from whom the appeal is taken, and on due cause shown of imminent peril to life and property.

(Code 1982, § 6-36(n))

Sec. 66-87. - Penalty.

Any person violating this article, upon conviction, may be punished as provided in section 1-14. Such person may be deemed guilty of a separate offense for each day during any portion of which any violation of this article is committed or continued. Violators also may be prosecuted under the code enforcement provisions of chapter 2, article V, of this Code. In addition to remedies available under chapter 2, article V, of this Code, the code enforcement board may require site restoration. The selection of any of the penalties in this section shall not preclude the town from seeking relief in the circuit court of the county, by way of injunction or other relief.

(Code 1982, §§ 6-36, 13-10)

Secs. 66-88—66-120. - Reserved.

DIVISION 2. - PERMIT

Sec. 66-121. - Required.

- (a) It is unlawful for any person to remove, alter, destroy or damage any existing dune or the vegetation thereon in the town, except after approval of a permit application submitted to the town, in accordance with the provisions of section 66-123.
- (b) No person shall alter, damage or cause to be damaged any sand dune or any vegetation (excluding lawns) growing seaward of a line 25 feet landward of the crest of the primary natural dune, without first having obtained from the town a class I, II, or III permit, as set forth in this division, in all zoning districts unless specifically exempted.

(Code 1982, §§ 6-36(a), 13-10(a); Ord. No. 15-97, § II, 12-9-97)

Sec. 66-122. - Classification of permits.

There shall be three classifications of permits that will be issued in accordance with the terms of this division:

- (1) Class I permits shall be applicable to all activities that are subject to the requirement to obtain a permit under this division that are not included in the definition of class II and III permits.
- (2) Class II permits shall be applicable to routine dune maintenance activities such as trimming, pruning, minor additions of vegetation and/or sand, and other activities as specified in the town's guidelines for routine dune maintenance. These guidelines shall be formally approved by the town council and shall be amended or readopted at least annually. The guidelines shall include but not be limited to a list of approved vegetation for planting in the dune, which list may be amended by the town's building official on the advice of the town's dune consultant. The guidelines also shall include specified trimming techniques and activities approved by the town council for administration permit approval. Any activity regulated by this section and not included in the town's guidelines shall be subject to the class I permit application process. Under no circumstances shall a class I permit allow existing vegetation to be lowered to a height less than 3.5 feet.
- (3) Class III permits shall be applicable to emergency dune repairs and shall be issued administratively in accordance with the application requirements specified in this division, including the approval of such emergency activities by the appropriate state, county and/or federal authorities as may be required.

(Code 1982, § 6-36(c))

Sec. 66-123. - Application requirements.

- (a) Class I permit. Applications for class I permits under this section shall be accompanied by a nonrefundable application fee of \$3,500.00 for major projects (involving town staff and town consultant's preinspection, recommendation, and follow-up inspection) and \$1,400.00 for minor projects (involving town staff and town consultant's review and recommendation only). Such applications shall also be subject to a permit fee consistent with the building permit fee schedule published by the town's building department, payable at the time of permit issuance. Applications for class I permits shall describe the property upon which the work is to be performed, and shall show the existing and proposed elevations of such property. Detailed construction plans shall be submitted with such applications, shall be of a scale not smaller than one inch equals 40 feet, and shall specify the nature and extent of the proposed work to be performed and remedial measures proposed to assure protection against inundation and erosion and to assure the maximum ecological integrity of the dune

system. Such applications must be signed by the owner of the property upon which the work is to be performed (in the case of a condominium, by the president of the condominium association). Documentation of state, county and/or federal approvals of the proposed work in the form of permits for the work as may be required must be provided to the town prior to the issuance of a town permit. When an application is filed, the town shall give notice to all property owners owning oceanfront land within 1,000 feet of the land described in the application at the last known address of the owners of record, pursuant to the records of the county property appraiser. If such neighboring property owner is a condominium, the town shall give notice to the condominium association. The notice shall be given at least 15 days prior to a public hearing to be held by the town council in regard to the application; the town's building official also shall cause notice of the public hearing to be published in a newspaper of general circulation in the county at least once a week for two weeks prior to the public hearing.

- (b) Class II permit. Applications for class II permits under this section shall be accompanied by a nonrefundable application fee of \$700.00 for beach/dune trimming applications and \$140.00 for all other class II applications. Such applications shall also be subject to a permit fee consistent with the building permit fee schedule as published by the town's building and zoning department, payable at the time of permit issuance. Applications for class II permits shall describe the property upon which the work is to be performed, and shall specify the proposed work to be performed and remedial measures proposed to assure protection against inundation and erosion, and to assure the maximum ecological integrity of the dune system, in accordance with the town's approved guidelines for routine dune maintenance. Such applications must be signed by the owner of the property upon which the work is to be performed (in the case of a condominium, by the president of the board of directors of the condominium association) and must include documentation of state, county, and/or federal approvals of the proposed work in the form of permits for said work as may be required.
- (c) Class III permit. Applications for class III permits under this section shall describe the property upon which the work is to be performed, shall specify the nature and extent of the proposed work to be performed, shall be signed by the owner of the property upon which the work is to be performed (or the owner's duly authorized representative), shall include documentation from the state department of natural resources identifying that an emergency condition exists at the site in question, and shall include documentation of state, county and/or federal approvals of the proposed work in the form of permits for the work as may be required. There shall be no application fee for a permit for a class III activity.

(Code 1982, § 6-36(d); Ord. No. 25-95, § 1, 11-14-95; Ord. No. 17-07, § 1, 10-4-07)

Sec. 66-124. - Issuance restricted.

No permit shall be issued where it appears that the proposed excavation, filling or removal of sand and/or the destruction, damaging, pruning or cutting of natural vegetation will result in the probable erosion or inundation of surrounding beaches, banks, dunes, and adjacent lands, or endanger the public safety, or adversely affect the stability of the existing dune structure, or adversely affect the ecological integrity of the dune system.

(Code 1982, § 6-36(e))

Sec. 66-125. - Bond.

Prior to the issuance of a class I, II or III permit under this section, the town may require the applicant to obtain and deposit with the town a good and sufficient performance bond in an amount of 135 percent of the estimated total project cost, as approved by the town, and in a form to be approved by the town attorney, such bond to be conditioned upon the applicant faithfully completing all work that may be required for the protection of the ocean dunes, banks and beaches against inundation and erosion.

(Code 1982, § 6-36(f))

Sec. 66-126. - Work to be performed by certain persons.

Any work permitted under this article, pursuant to the approval of an application by the town council, and relating to the vegetation within or on the dunes shall be accomplished by a town registered landscape maintenance company, and supervised by a state licensed coastal engineer, state licensed landscape architect, or other consultant with expertise in dune systems management approved by the town's building official.

(Code 1982, § 6-36(g))

Secs. 66-127—66-150. - Reserved.

DIVISION 3. - WAIVERS AND VARIANCES

Sec. 66-151. - Procedures.

- (a) All applications for a waiver or variance from the setback line in section 66-177 or from the jurisdictional limitations identified under section 66-123, in accordance with the provisions set out below, shall be made in writing to the building official, together with an application fee of \$375.00. Such applications, in order to be considered, must set out in detail the grounds upon which the waiver or variance is sought and contain sufficient engineering and environmental data to substantiate the applicant's claim. Applications for waivers or variances, in order to be considered, shall contain the names and last known addresses of the owners of record (pursuant to the records of the county property appraiser of all oceanfront property within 1,000 feet of the land described in the application. If such neighboring property owner is a condominium, the applicant shall provide the name and last known address of the condominium association.
- (b) The building official shall examine all applications for waivers or variances properly made and, after consultation with other members of the town staff and/or the town's consultant, shall make a recommendation for or against such application to the town council. The town manager shall then cause the application for waiver or variance to be placed before the town council at a public hearing not less than 30 days after the town's receipt of the application for waiver or variance. The public hearing shall be for the purposes of consideration by the town council of the application for waiver or variance, the recommendation of the building official, and the statements and recommendations of all interested parties and the general public, upon which consideration the town council shall decide to either grant or deny the application for waiver or variance.
- (c) The building official shall give notice in writing to the applicant and to all owners of record (pursuant to the records of the county property appraiser) of all oceanfront property within 1,000 feet of the property for which a waiver or variance is sought at least 15 days prior to the public hearing; where such neighboring property owner is a condominium, the building official shall give notice to the condominium association. If such neighboring property owner is a condominium, the applicant shall provide the name and last known address of the condominium association. The building official shall cause notice of the public hearing to be published in a newspaper of general circulation in the county at least once a week for two weeks prior to the public hearing.

(Code 1982, § 6-36(j)(1))

Sec. 66-152. - Conditions.

- (a) The town council shall authorize the excavation or erection of a structure at any coastal riparian location where, through the presentation of adequate engineering data, it can be demonstrated that such excavation or erection would have no adverse effect upon the ecological integrity of the dune, the control of beach erosion, hurricane protection, coastal flood control, the shoreline, and/or offshore deposits of sand.

- (b) If in the immediate contiguous or adjacent area a number of existing structures have established a reasonably continuous and uniform construction line closer to the line of mean high water than the designated setback line, and if the placement of those existing structures has not had an adverse impact upon rare, threatened or endangered vegetation; contributed to beach erosion; interfered with hurricane protection; obstructed coastal flood control; nor adversely affected the shoreline and/or offshore deposits of sand, the town council may grant a waiver or variance. The applicant shall sustain the burden of demonstrating the continuity and uniformity of a construction line different from the designated setback line and the absence of adverse effects as described in this section.

(Code 1982, § 6-36(j)(2))

Secs. 66-153—66-175. - Reserved.

DIVISION 4. - REGULATIONS AND REQUIREMENTS

Sec. 66-176. - Grading and leveling site after removal.

Any person granted a permit pursuant to division 2 of this article, and who removes or excavates sand for any reason from the ocean beach or the adjacent dunes within the setback area described in section 66-177, shall place such sand on the Atlantic Ocean beach in the area in front of which it is being removed and shall contour such sand in a manner so as to be compatible with the surrounding beach area. A waiver to this requirement may be granted at the discretion of the town's building official.

(Code 1982, § 6-36(h))

Sec. 66-177. - Setback lines.

- (a) In all zoning districts except the beach area zoning district and properties with seawalls at elevation 14.34 feet National Geodetic Vertical Datum (NGVD), no person shall construct any primary structure seaward of a line 25 feet landward of the crest of the primary natural dune, nor construct any structure whatsoever (with the exception of state approved dune walkovers or fences) seaward of a line 15 feet landward of the crest of the primary natural dune as defined in this section, nor make any excavation, remove any beach material, or otherwise alter existing ground elevations in a manner not applicable to a class II or III permit as described herein seaward of a line 15 feet landward of the crest of the primary natural dune. When the dune occurring west of the crest of the primary natural dune is less than elevation plus 14.34 feet National Geodetic Vertical Datum, then a bulkhead must be constructed in conjunction with development of the property landward of such dune, across the width of the subject property at a location approved by the town.
- (b) Properties located in the beach area district shall comply with setbacks as prescribed by sections 134-1471 and 134-1701.
- (c) In all zoning districts, properties which have an existing seawall at an elevation less than 14.34 feet National Geodetic Vertical Datum shall have such seawall raised to a minimum elevation of 14.34 National Geodetic Vertical Datum in conjunction with any development of the property. Setbacks for such properties shall be measured from the town's bulkhead line as defined in this article.

(Code 1982, § 6-36(i); Ord. No. 15-97, § II, 12-9-97)

Secs. 66-178—66-210. - Reserved.

ARTICLE IV. - VEGETATION

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 native natural plant communities, and the installation and continued maintenance of landscaping within the town, in order to:

- (1) Promote water conservation and improve air quality by promoting evapotranspiration through the use of permeable land areas for aquifer recharge and surface water filtration.
- (2) Maintain and improve the aesthetic appearance of the town through appropriate landscape design; thereby protecting and increasing property values throughout the community.
- (3) Improve the environmental quality of the town.
- (4) Eradicate or control certain invasive exotic plant species as listed on the Florida Exotic Pest Plant Council's List of Invasive Plant Species.
- (5) Protect and encourage native shoreline and wetland ecosystems.
- (6) Offer special guidelines for the removal and control of those pestilent exotic species that are particularly deleterious to native shoreline environments.
- (7) Protect listed plant species that inhabit the town as referenced in Sec. 66-312.

- (8) 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.
- (9) Provide a visual buffer between otherwise incompatible types of land uses.
- (10) Strengthen important vistas and reinforce desirable site design.
- (11) Promote the use of vegetation for energy conservation by encouraging cooling through the provisions of shade and channeling of breezes.
- (12) Encourage the use of rain harvesting systems such as cisterns, as a means to conserve water by reducing overwatering of landscapes.
- (13) Promote water conservation and lower water costs through the use of smart irrigation systems.

(Code 1982, § 11.5-7)

Sec. 66-213. - Applicability.

This article shall apply to, and a permit shall be required when one or more of the following activities are proposed on private property: any new development or redevelopment. Provisions relating to tree removal or wetland protection apply to existing development, as noted.

- (1) An entire lot where new construction or redevelopment occurs.
- (2) Those portions of a lot where proposed changes in vegetation (removal, relocation or addition):
 - a. Constitute 35% or more of the existing landscaped open space (but not less than 1,000 square feet) of a lot as defined in Chapter 134.
 - b. Are within 10 feet of any side, rear, street-side or street-rear property line and reduce the opacity of existing screening of more than 30 lineal feet.
 - c. Occur within an easement where no easement agreement exists, or where proposed changes are not in conformance to an existing agreement or encroach into a previously approved drainage system.
 - d. Affect "essential elements" of a landscape design as designated by the Architectural or Landmark Preservation Commission, and memorialized in an agreement, recorded document or contained as a deed restriction between the town and the property owner.
 - e. Require Architectural or Landmark Preservation Commission approval.
- (3) Existing development when proposed activities involve tree removal (See Sec. 66-236), or wetland protection (See Sec. 66-361 through Sec. 66-400).

(Code 1982, § 11.5-8)

Secs. 66-214—66-235. - Reserved.

DIVISION 2. - PERMITS

Sec. 66-235. – Application procedure for vegetation installation permit.

(a) Requirement for application. Installation permits shall be obtained by making application prior to installation to the planning, zoning and building department director or designee, after having first received approval from the architectural or landmark preservation commission if applicable, and by paying a permit fee in accordance with the schedule of fees adopted by resolution by the town council and amended in the same manner.

(b) Permit Issuance and time limitations. Upon approval of an application, the planning, zoning and building department director or his or her designee shall issue a permit. Permits shall expire and become null and void if work has not commenced within 90 days from the date of permit issuance. Work must be completed and pass a final inspection within one year of issuance of the permit. A time extension for the permit may be granted by the planning, zoning and building department director or designee for good cause upon written request.

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

(a) Requirement for Application Removal-permits. Vegetation removal permits shall be required to remove trees, essential elements as defined herein, or vegetation which affects more than 35% of the existing landscape open space on a site, not sought in conjunction with a vegetation installation building permits. Such permits shall be obtained by making application prior to removal, relocation or replacement to the planning, zoning and building official department director or his designee. Applications must be submitted, at least ten working days prior to the proposed date of removal in order to be considered timely, and shall be accompanied by a fee. Failure to submit a permit in a timely manner may result in the payment of a penalty fee. Permit and penalty fees are in accordance with the schedule of fees adopted by resolution by the town council and amended in the same manner.

Commented [VC3]: This provision for a vegetation removal permit currently exists in the Town's code. Staff is not aware of similar provisions in other codes, although no research has been done. However, most codes do contain requirements regarding tree removal. The 35% is proposed by Staff as significant enough to warrant getting a removal permit (or alternatively, a vegetation installation permit).

(b) Circumstances justifying issuance. Vegetation removal permits shall be issued in the following circumstances:

- (1) Where vegetation, including a trees, due to natural circumstances, is no longer viable, is in danger of falling, is too close to existing structures 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 vegetation tree, or otherwise preserved, with the exception of mangroves, which are regulated elsewhere in this chapter; or
- (3) Where vegetation 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 articles II and III of this chapter.
- (4) Where proposed replacement vegetation, including trees, meets the requirements and intent of this code, as determined by the Planning, Zoning and Building Department Director or designee.

(c) Permit issuance and time limitations. Upon approval of an application, the planning, zoning and building department director 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. Work must be completed and pass final inspection within six months of permit issuance. A time extension for the permit may be granted by the planning, zoning and building department director or designee for good cause upon written request.

Commented [VC4]: This time limit is shorter than time allowed for a vegetation installation permit to encourage the removal of dead or deteriorating landscape as soon as possible.

(d) Where removal is in conjunction with an approved vegetation installation permit, all vegetation or trees to be removed must be included in an approved landscape plan, and a separate vegetation removal permit will not be required.

(e) The provisions contained in this section do not apply to projects which solely involve the removal of pestilent exotic species.

(Code 1982, § 11.5-21)

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 licensed to practice in the state of Florida, who shall guarantee that the plans meet all specifications of this chapter. The plans shall include a drainage statement by a professional engineer registered licensed to practice in the state of Florida that the landscape plan is not in conflict with the stormwater management plan.

All work requiring a vegetation installation or removal permit which does not require architectural or landmark preservation commission review must be accompanied by information sufficient to determine conformance to this code, but need not be signed and sealed by a registered landscape architect unless the planning, zoning and building director or his or her designee determines that such signature and seal and a statement that plans meet all specifications of this chapter are necessary.

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

Sec. 66-262. - Landscaping plan.

(a) Landscaping plans shall ~~should~~ identify:

- (1) Any native, 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, number, height, spread, size, amount of clear or grey wood, clear trunk, botanical name, cultivar and common name of all existing vegetation four inches or larger in diameter on the property.
 - (4) A proposed plant list by symbol, quantity, height, spread, DSH, spacing, grade, native or non-native, drought tolerance, salt tolerance, The location, botanical name, cultivar species name, and common name of all proposed vegetation on the property, including percentages of drought and very drought tolerant plants in a format as specified by the town.
 - (5) The location and type of trees or other vegetation 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 of Florida that the landscape plan is not in conflict with the stormwater management plan.
 - (7) Planting specifications and irrigation sources, including but not limited to staking, fertilization, top soil, mulching and applicable drainage and subsurface treatments.
 - (8) Property boundaries, location of proposed or existing buildings and site improvements, including but not limited to walls, gates, retention areas, parking, access aisles, driveways, sidewalks, easements, rights-of-way, drainage structures, overhead and underground utilities, poles, fire hydrants, check valves, transformers and other features to remain or to be removed.
 - (9) Method to protect trees, including historic or specimen trees, and native plant communities during construction.
 - (10) Such other information that may be required to give a complete understanding of a proposed plan.
- (b) Details shall be in the same scale as the site plan, but not less than 1 inch equals 50 feet, with 1 inch equals 20 feet recommended for all planting plans.

(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.

Detailed irrigation plans must be signed by an individual certified under the Irrigation Association Certification Program, shall be submitted as part of a building permit, and shall include:

- (1) Layout of irrigation system and identification of components.
- (2) Explanation of relationship between plant groupings and type of irrigation used.
- (3) If the use of cisterns is proposed, include the size, location and estimated rainfall to be collected.

(Code 1982, § 11.5-9(b))

Secs. 66-264—66-285. - Reserved.

DIVISION 4. - DESIGN REQUIREMENTS

Sec. 66-285. – General

- (1) Landscape design shall enhance architectural features, relate structural design to the site, visually screen dissimilar uses and unsightly views, reduce noise impacts from roadways and incompatible uses, strengthen vistas and reinforce neighborhood site design and architecture.
- (2) Existing specimen trees and native vegetation shall be preserved to the maximum extent possible, and the landscape plan shall include at least 33 percent of highly or moderately drought tolerant plant species where possible.
- (3) At least 20 percent (20%) of all required landscaping, by category in the form of trees, shrubs and ground cover plants, other than grass, shall consist of 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 to determine appropriate native vegetation
- (4) Canopy trees and shrubs shall be used to reduce energy consumption by shading buildings and paved surfaces.
- (5) Street trees shall be used to shade roadways and provide visual order. All street tree planting shall conform to the requirements in the town's Right-of-Way Manual.
- (6) Canopy trees and shrubs shall be placed on the site in locations that take into consideration overhead utility lines, proximity to native plant communities, underground rain harvesting systems, sewer lines, and other underground utilities and facilities.
- (7) Adjoining properties must be screened to mitigate negative impact to neighboring properties and adverse impacts of development.
- (8) All vegetation included in the proposed landscape plan must be in conformance with the requirements of the town's code of ordinances.

Commented [VC5]: This sentence has been added to more specifically address the use of native vegetation. Although other communities require a higher percentage, Staff believes that a lesser requirement would serve as a good starting point for introducing this requirement. At some time in the future, it may be determined that a higher percentage is necessary or advisable.

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

A. The following section shall be applicable to all new construction, and substantial improvements construction with a value of 50% or more of the total value of the principle structure, or those activities on a lot which are included in a landscape installation or removal permit. Additional requirements may be placed by the town council as a condition of a development order, or in conjunction with an approval granted by the architectural or landmark preservation commission, in order to promote the purpose and intent of this article.

- (1) *Required.* Landscapes shall be designed in accordance with water conserving landscape design elements set forth in subsections (2)—(95).
- (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>.)

3. Turf shall not be treated as a fill-in material, but rather as a major planned element of the landscape and shall be placed so that it can be irrigated separately from planting beds.

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>)

c. *Trees.*

1. A minimum of one shade/canopy tree is required for every 2,500 square feet, or portion thereof, of a lot.
2. A minimum of one shade/canopy tree is required for lots of less than 10,000 square feet.
2. Every effort should be utilized to reduce the risk of damage and liability by utilizing more salt tolerant and wind tolerant trees and palms due to the town's coastal proximity and the high risk of hurricanes in South Florida.
3. The selection and placement of all street trees must refer and adhere to the Town of Palm Beach Standards Applicable To Public Rights-Of-Way And Easements Within The Town Of Palm Beach.
4. Non-conforming lots less than 10,000 square feet

d. *Screening of equipment.*

1. Dumpster, mechanical equipment, A/C units, electrical transformers, generators and all above ground equipment shall be screened in accordance with applicable requirements contained in Chapter 134 Zoning.
2. Such screening shall not interfere with normal operation of equipment.

e. *Parking area interior landscaping and parking islands.*

The following requirements are applicable to interior parking areas of parking lots subject to the requirements of Sec. 134-2179(e) and (f) and are in addition to the requirements contained therein.

- i. Terminal islands. Any landscaped islands must have at least 5 feet of planting area width (excluding Type D or Type F curbs) and 18 feet in length shall be provided at the end of each parking row. In addition, there shall be a minimum requirement of 1 tree and 25 groundcover plants planted in every landscaped terminal island.

Commented [VC6]: Previous version was 1 per 5,000 square feet.
It has been suggested that lots of 15,000 square feet or less may be better able to accommodate a minimum of 2 shade trees, and lots of over 15,000 square feet can accommodate a minimum of one shade tree per 5,000 square feet. Although a strict provision such as 1 / 2,500 sq ft is desirable, the size of homes in relation to lot size is a consideration in establishing a suitable minimum.

ii. Interior islands. All parking areas shall be so arranged so that if there are 10 contiguous parking spaces along the same parking aisle, the eleventh space shall be a landscaped island. These landscaped interior islands must be at least 5 feet of planting area width (excluding Type D or Type F curbs) and 18 feet in length. In addition, there shall be a minimum requirement of 1 tree planted in every interior landscape island.

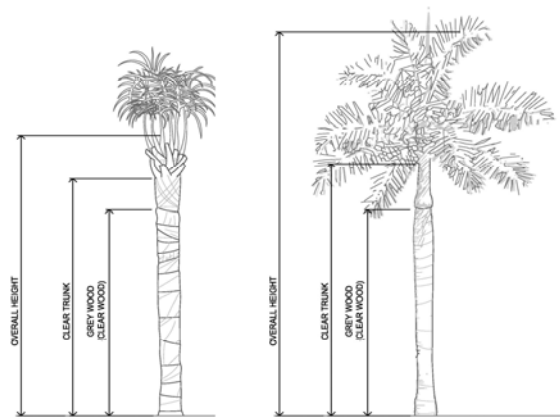
iii. Landscape treatment. All interior planting areas not dedicated to trees, shrubs, or existing vegetation, shall be landscaped with sod, groundcover, or other appropriate landscape treatment (no sand, rock, pavement, or base soil).

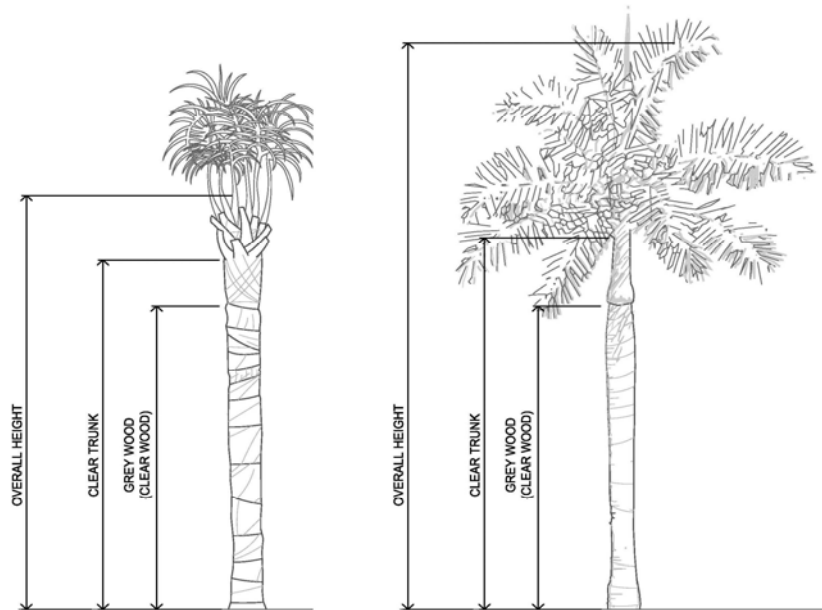
2. Sight triangles and clear visibility requirements. The creation and maintenance of site triangles must conform to Chapter 134 and the Town of Palm Beach Standards Applicable To Public Rights-Of-Way And Easements Within The Town Of Palm Beach.

-(4) Minimum installation requirements.

- a. Shade/canopy trees shall be a minimum overall height of 14 feet, 6 feet spread, 2.5 inches DSH and 5 feet of clear trunk at planting.
- b. Intermediate trees shall be a minimum overall height of 12 feet, 5 feet spread, 2 inches DSH and 4.5 feet clear trunk at planting.
- c. Small trees shall be a minimum overall height of 10 feet, 4.5 feet spread, 1.5 inches DSH and 4 feet clear trunk. At planting
- d. Palms shall have a minimum of 8 feet clear trunk at planting. See Diagram A for palm height measurements. All proposed coconut palms shall be certified to be resistant to Lethal Yellowing.

DIAGRAM A





- e. Multi-trunk trees shall have a minimum of 3 – 5 trunks with equal diameters originating from the ground with angles no greater than 45 degrees and with no crossing branches.
- f. Shrubs shall be a minimum of 2 feet height, full to base, 2 feet spread and planted a maximum of 2 feet on center when measured immediately after planting. If the spread cannot be met with the 2 feet requirement, then 18 inches spread and 18 inches on center may be utilized. When shrubs are used for the perimeter buffer, said shrubs shall be a minimum of 2 feet in height at time of planting and branch touching branch.
- g. Required buffer hedges shall be planted a minimum 6 feet high, full to the base, with branch touching branch and maintained so as to form a continuous, unbroken solid, visual screen.
- h. Shrubs shall be planted so the branches do not touch the building walls or walkways at time of planting.
- i. The use of tree and plant material that reinforces the ambience of the town's distinctive, lush, diverse subtropical character is strongly encouraged.

- j. Plant quality for all required landscaping shall be Florida No. 1 or better, as provided in Grades and Standards for Nursery Plants, Part 1 and Part 2, as amended, as published by the Florida Department of Agriculture and Consumer Services. All vegetation shall be clean and free of noxious pests or disease. Sod shall be green, healthy, clean and visibly free of weeds, noxious pests and diseases. It shall be solid St. Augustine 'Floritam', 'Palmetto', Zoysia 'Empire', Paspalum 'Seashore', Bermuda or other cultivars on the Florida Friendly Landscaping list, laid on a smooth planting base with tight joints, at 100 percent coverage at time of planting and cut to fit all landscape planters and curb areas.
 - k. Planting soil and topsoil shall be clear and free of construction debris, weeds and rocks. The topsoil and/or planting soil for all planting areas shall have a pH between 6.5 and 7.0 and be composed of the appropriate percent muck and sand in accordance with the requirements of the plant material.
 - l. All trees/palms shall be properly guyed and staked at the time of planting until one year from landscape final or establishment. The use of nails, wire or rope, or any other method which damages the trees or palm, is prohibited.
 - m. All plants shall be installed so the top of the rootball is 10% above the surrounding soil grade. All synthetic string, synthetic burlap, cords, or wire baskets shall be removed prior to planting
 - n. All proposed landscaping shall be installed with fertilizer which has trace minor elements in addition to a minimum six percent Nitrogen (N) - six percent Phosphorus (P) - six percent Potassium (K) of which 50 percent of the nitrogen must be derived from an organic source.
 - o. All plant root ball sizes shall conform or exceed the minimum standards in the current edition of Florida Grades and Standards.
- (54) Irrigation standards.
- a. Weather-based controlled irrigation systems, either manual or automatic may must be used for the cultivated landscape areas in accordance with this article.
 - b. The use of rainfall harvesting systems is encouraged and promoted.
 - cb. Irrigation shall be designed in zones that reflect necessary water regimes for specific groupings of vegetation.
 - de. 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.
 - ed. 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.
 - fe. In order to prevent overthrow, low trajectory heads or low volume water distributing devices shall be used when irrigating confined areas.
 - gf. No more than ten percent of spray radius shall be allowed onto impervious areas.
 - ig. 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.
 - jh. A temporary irrigation system shall be removed no later than 60 days after completion of the planting, unless implemented in conjunction with a town requirement to sod and irrigate as a condition of a development application approval.
 - k. Irrigation must be designed to provide 100 percent coverage of landscape areas.
- (65) 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

Commented [VC7]: The modifications to this section were based in part on the Watersmart Landscape Checklist published by the California Urban Water Conservation Council.

Commented [VC8]: Sec. 66-286(B) requires that "all new, replacement and major modification of landscape irrigation systems" must conform to smart irrigation standards and be equipped with weather-based irrigation controllers.

material consists of by-product or alternative mulches such as pine bark, eucalyptus, utility or other mulch as recommended by Florida Friendly Landscaping principles. The use of Cypress mulch 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 **weather** 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.

[INSERT SEC. 66-286 (B) HERE]

Sec. 66-287. Certificate of Occupancy and Certificate of Completion.

No certificate of occupancy or certificate of completion shall be issued until such time as all of the required landscaping is installed and approved by the planning, zoning, and building department director or designee. However, nothing herein shall prevent the issuance of a temporary certificate of occupancy so long as at least the sod portion of the landscaping has been installed.

Sec. 66-288. Protection of Trees during Construction or Land Development.

(a) During any construction or land development, protective barriers specified and approved by the Planning, Zoning, and Building Director, or his or her designee, shall be placed and maintained around all trees to be retained on site to prevent their destruction or damage. The developer shall use every precaution possible to avoid damaging such trees by preventing the use or storage of materials or equipment, or the contamination of soil with such materials as paint, oil, solvents, asphalt, concrete, mortar, and the like, within the drip line.

(b) No attachments other than those of a protective or non-damaging nature, shall be attached to any tree except those trees approved to be removed or relocated.

Sec. 66-289. Vegetation Maintenance Requirements

An owner of land is subject to this code and shall be responsible for the maintenance of said land and landscaping. All vegetation shall be maintained at all times so as to present a healthy, vigorous and neat appearance free from refuse and debris. All landscaped areas shall be sufficiently fertilized and irrigated to maintain the plant material in a healthy and viable condition. All fertilizer and pest control shall be safe and environmentally friendly and applications shall conform to the manufacturer's specifications.

All missing, removed, dead, or damaged vegetation whether from natural or manmade causes shall be replaced with equivalent vegetation in a time period determined by the Town of Palm Beach.

Commented [VC9]: Since not all cypress mulch is produced sustainably, its use is not recommended.

Commented [VC10]: Current thinking is that plants, including new plantings, that are watered appropriately will survive excessive weather conditions.

Commented [VC11]: Text in this section was removed; it duplicates text contained in Sec. 66-263.

Commented [PZB12]: This section was added at the request of the Code Enforcement Division, who desired stronger provisions in the code under which to cite an owner for failing to maintain landscaping.

Where vegetation has not been maintained or pervious areas exist without benefit of vegetation which meets the requirements of this code, the owner may be cited at which time the requirements of this code will apply to all areas in violation.

Sec. 66-290. Tree Trimming Standards.

All trees shall be trimmed in accordance with standards established by American National Standards Institute (ANSI A300). All trimming, pruning and shaping shall be performed under the supervision of a certified arborist.

Sec. 66-291. Hatracking/Topping Prohibited.

Pruning a tree by hatracking or topping and thus creating detrimental effects, including vigorous but weakly-attached regrowth, pest susceptibility, pathogen intrusion, and internal decay is prohibited. However, crown reduction in excess of one-third may be permitted under the following conditions:

- (1) If a tree interferes with utility lines or utility structures.
- (2) If a tree has significant damage and in the opinion of the Planning, Zoning & Building Director or designee, should be pruned in order to preserve the tree.

{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}

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. The following plants have been shown to be 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:
- (1) Australian pine (*Casuarina* spp.).
 - (2) Brazilian pepper (*Schinus terebinthifolius*).
 - (3) Punk or paper tree (*Meleleuca quinquenervia*).
 - (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) 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	<i>Lygodium microphyllum</i>	2004
Air Potato Vine	<i>Dioscorea bulbifera</i>	
Melaleuca, Punk Tree	<i>Melaleuca quinquenervia</i>	2006
Brazilian Pepper	<i>Schinus terebinthifolius</i>	2008

Carrotwood	Cupaniopsis anacardioides	
Earleaf Acacia	Acacia auriculiformis	2010
Schefflera	Schefflera actinophylla	2006
Australian Pine*	Casuarina spp.	2012*
Kudzu	Pueraria montana var. lobata	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.

(d) 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."

(e) 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)

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 sections 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)

Secs. 66-313—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^[3]

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))

Sec. 66-362. - Same—Standards for approval or denial of application.

- (a) No approval shall be granted for the removal, alteration or destruction of mangroves by mechanical, chemical or other means except as provided for in this chapter.
- (b) No approval shall be granted for the alteration or removal of any mangrove that serves as a nesting site for native or migratory birds.
- (c) Prior to the commencement of any alteration, permits and approvals required by other federal, state and local agencies must be obtained, and copies must be submitted to the town planning, zoning and building department.
- (d) Alterations must be consistent with the provisions of section 126-59.

(Code 1982, § 11.5-24(b))

Sec. 66-363. - Same—Approvals.

An approval shall be granted for alteration or removal of mangroves when:

- (1) The alteration is to provide upland property owners with reasonable access to the water subject to the following guidelines:
 - a. The removal or alteration of mangroves shall be restricted to one accessway running perpendicular to the shoreline.
 - b. The width of the mangrove area affected by the accessway shall not exceed 12 feet.
 - c. The applicant must demonstrate a need for the accessway if such accessway necessitates the removal and/or alteration of mangroves.
 - d. The accessway must be designed and located in such a manner that the least amount of damage to the mangroves is assured.
 - e. A shoreline management plan is submitted, through which the applicant shall provide mitigation of wetland loss.

- (2) The alteration is for visual access and is part of an approved shoreline management plan, as specified by this chapter.
- (3) Such removal or alteration is necessary to make reasonable use of the property subject to the demonstration by the applicant that there is insufficient upland area or nonmangrove areas to make reasonable use of the property; and, is part of an approved shoreline management plan, as specified by this chapter.

(Code 1982, § 11.5-24(c))

Sec. 66-364. - Same—Prohibited alterations.

The following alterations to mangroves are prohibited:

- (1) The removal of more than 25 percent of the lateral limbs or other lateral branches of any untrimmed white, black or buttonwood mangroves.
- (2) The reduction in height of any white, black or buttonwood mangrove by more than 25 percent of the foliage of any untrimmed mangrove.
- (3) The reduction in height of any red mangrove.
- (4) The reduction of more than 25 percent of the lower part of the canopy of red mangroves.
- (5) The removal of any trunk, limbs or other branches greater than one inch in diameter.
- (6) Alterations of any prop roots.
- (7) Alterations by other than hand-held, nonmechanized equipment.
- (8) Alterations of mangroves more than once every two years, except in connection with physical access.

(Code 1982, § 11.5-24(d)(1)—(7), (9))

Sec. 66-365. - Same—Time limitations.

Alterations of mangroves shall be permitted only in the months of October, November, December, January, February and March, except that alteration of mangroves shall be allowed year round in connection with physical access.

(Code 1982, § 11.5-24(d)(8))

Sec. 66-366. - Same—Exemptions.

No approval under this subdivision shall be required for:

- (1) Alteration by a state licensed land surveyor in the performance of his duties, provided such alteration is the minimum necessary and is limited to an area three feet or less in width.
- (2) Alteration by a waterfront property owner who desires to alter mangroves that were voluntarily planted as part of an approved shoreline management plan, provided that such planting was not required for remedial purposes or as part of any prior development approval, and the alteration is specified by the shoreline management plan.

(Code 1982, § 11.5-24(e))

Sec. 66-367. - Other than mangroves—Prohibitions.

No person shall alter, allow, or cause to be altered any nonmangrove wetlands without first obtaining a permit from the town planning, zoning and building department.

(Code 1982, § 11.5-25(a))

Sec. 66-368. - Same—Standards for approval or denial of application.

- (a) No wetlands shall be altered without permits from appropriate federal, state and local agencies.
- (b) Compensatory wetland mitigation shall require that the amount of wetlands purchased, created, enhanced or restored be large enough to assure that the amount of wetlands destroyed or degraded will be completely and successfully replaced.

(Code 1982, § 11.5-25)

Secs. 66-369—66-400. - Reserved.

ARTICLE V. - WILDLIFE PROTECTION^[4]

Footnotes:

--- (4) ---

Cross reference— Animals generally, ch. 10.

Sec. 66-401. - Findings.

- (a) Various species of animals found in the town have been classified by the state game and fresh water fish commission as endangered, threatened, or species of special concern, reflecting a depletion in population so critical that extinction is possible.
- (b) These species may be of aesthetic, ecological, educational, historical, recreational, economic or scientific value.
- (c) The town seeks to preserve a stable ecosystem, which is dependent upon the number and diversity of constituent species.
- (d) The protection of these species requires preservation of occupied habitat, protective buffers and adequate management measures.

(Code 1982, § 11.5-51)

Sec. 66-402. - Purpose.

The purpose of this article is to protect listed species that inhabit the town by safeguarding the habitat in which they live from various impacts associated with development.

(Code 1982, § 11.5-52)

Sec. 66-403. - Applicability.

This article is applicable to:

- (1) All undeveloped parcels of 15 acres or more that are entirely or partially forested by native vegetation or mixtures of native and exotic vegetation.
- (2) All undeveloped parcels containing areas of wetland vegetation of two acres or more.
- (3) Undeveloped parcels upon which listed species have previously been identified.

(Code 1982, § 11.5-53)

Sec. 66-404. - Identification.

Applicable parcels shall be inventoried by a biologist, ecologist or other related professional hired by the developer for species listed in the state game and fresh water fish commission's "Official Lists of Endangered and Potentially Endangered Species" as endangered, threatened or species of special concern.

(Code 1982, § 11.5-54)

Sec. 66-405. - Standards.

When species listed by the state game and fresh water fish commission's "Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida" are identified on development sites, a management plan shall be prepared by an ecologist, biologist or other related professional to ensure that species protection shall be approved by the planning, zoning and building department prior to approval of development.

(Code 1982, § 11.5-55)

Sec. 66-406. - Management plan.

The management plan shall be consistent with the requirements of the state game and freshwater fish commission.

(Code 1982, § 11.5-56)

Sec. 66-407. - Consultants.

The town may hire a qualified consultant, at the expense of the developer, to review the management plan, if necessary.

(Code 1982, § 11.5-57)

Secs. 66-408—66-440. - Reserved.

ARTICLE VI. - SOIL EROSION, SEDIMENT CONTROL AND FUGITIVE DUST¹⁵

Footnotes:

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Cross reference— Floods, ch. 50; stormwater management, § 86-86 et seq.; erosion protection of Ocean Boulevard, § 106-81 et seq.; stormwater control, § 122-151 et seq.

Sec. 66-441. - Findings.

- (a) Land disturbing activities can cause excessive runoff and accelerate the process of soil erosion, resulting in the damage and loss of natural resources, including the degradation of water quality.
- (b) In addition, emissions of particulate matter during construction and demolition, including but not limited to incidents caused by vehicular movement, transportation of materials, construction, alteration, demolition or wrecking of buildings or structures, or the stockpiling of particulate substances may trespass on neighboring properties and degrade air quality.
- (c) The town finds that:
 - (1) Excessive quantities of soil may erode from areas undergoing development due to land disturbing activity.
 - (2) Soil erosion can result in the degradation of valuable shoreline resources, such as dunes and lagoonal shoreline communities.
 - (3) Sediment from soil erosion can clog storm sewers and swales, and silt navigational channels.
 - (4) Sediment and sediment-related pollutants degrade wetland systems, including Lake Worth, resulting in the destruction of aquatic life and degradation of water quality.
 - (5) Airborne sediments can constitute a nuisance for adjacent property owners, and degrade the quality of the air.

(Code 1982, § 11.5-71)

Sec. 66-442. - Purpose.

The purpose of this article is to safeguard persons, protect property, prevent damage to the environment, and promote the public welfare by guiding, regulating and controlling the design, construction, use and maintenance of any development or other activity which disturbs or otherwise results in the movement on earth of land situated in the town.

(Code 1982, § 11.5-72)

Sec. 66-443. - Erosion control plan.

No person may engage in land disturbing activity until a plan has been submitted for erosion and sediment control and the plan has been approved by the town. The erosion control standards given in this article should be incorporated, as appropriate, into the erosion and sediment control plan.

(Code 1982, § 11.5-73)

Sec. 66-444. - Standards.

- (a) No land disturbing activity during periods of construction or improvement to land shall be permitted in proximity to wetlands or the shoreline of Lake Worth unless a 25-foot buffer zone is provided along the margin of the watercourse.
- (b) The angle for graded slopes and fills shall not be greater than the angle that can be retained by vegetative cover, or other adequate erosion-control, devices or structures (generally 4:1 or less). Slopes left exposed will, within ten working days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices or structures sufficient to restrain erosion.
- (c) Groundcover sufficient to restrain erosion must be planted or otherwise provided on portions of cleared land upon which further construction activity is not being undertaken within 15 days of clearing.

- (d) Vegetative cover or other erosion control devices or structures used to meet these requirements shall be properly maintained during and after construction.
- (e) Use temporary seeding or sodding, adequate covering, or chemical application, on exposed soils, including stockpiles of topsoil, sand or other construction fill, where delays in construction of more than one day are anticipated.

(Code 1982, § 11.5-74; Ord. No. 21-02, § 8, 11-12-02)

Sec. 66-445. - Exemptions.

Minor land disturbing activities, such as home gardens and individual home landscaping, repairs, maintenance work, and other related activities, provided such activities do not contribute to any on-site generated erosion, or degradation of lands or water beyond the boundaries of the property of the residence involved.

(Code 1982, § 11.5-75)

Sec. 66-446. - Violations.

In addition to other remedies for violation of this chapter, violation of this article shall constitute grounds for the issuance of a stop work order by the building official in accordance with the provisions of the building code.

(Code 1982, § 11.5-76)

B(9) Advanced irrigation systems. This section shall be applicable to any all new, replacement or modification affecting more than 50% of a landscape irrigation system 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.

(1)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.

(2)b-All components of an automatic landscape irrigation system, including but not limited to controllers, soil moisture sensors, sprinkler heads and valves, which are installed subsequent to the date of adoption of this ordinance must conform to smart irrigation standards and be equipped with a weather-based irrigation Evapotranspiration-based (ET) or moisture sensing-based controller, s 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.

(3) The weather-basedET irrigation controller must be approved by the building official as meeting the Environmental Protection Agency (EPA) WaterSense® specification for weather-based controllers or the requirements of the Irrigation Association (IA) for climate-based or moisture sensor-based controllers, or some comparable and applicable standard.

C.e. Owners who have a properly operating irrigation system controlled by a weather-based irrigation controller evapotranspiration-based (ET) or moisture sensing controlled irrigation system shall be eligible for a variance waiver from the day-of-the-week landscape irrigation restrictions set forth in section 122-78(b)(3) and (4) by the submission of an application for a variance waiver, and payment of any applicable fees as adopted by the Town Council by resolution 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 approved variance. 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.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.e. A variance waiver 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

Commented [VC1]: Staff was asked to determine if the regulations in this section of the code could be simplified/reduced to promote participation, while still conforming to state statute and the requirements of the South Florida Water Management District.

Commented [VC2]: Staff is concerned that this phrase is too ambiguous to regulate.

Commented [VC3]: The word 'variance' was changed to 'waiver' to encourage more participation.

Commented [VC4]: This allows the Town Council to adopt a fee, should it wish to do so, by resolution, rather than by a change to the Code.

Commented [VC5]: This does not apply to properties receiving a variance, and is already addressed in Sec. 122-78(c).

Commented [VC6]: This statement is required by South Florida Water Management District.

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.~~

~~E1.~~ 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.~~

~~G5.~~ A licensed contractor shall perform annually a maintenance review of the weather-based irrigation controller and irrigation system 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/waiver received under 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, or 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 day the system fails 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)

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

Commented [VC7]: This statement is required by South Florida Water Management District.

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: November 10, 2016

To: Ordinances, Rules & Standards Committee

From: Jay Boodheshwar, Deputy Town Manager

Re: Regulation of Internet-Based Ride Sharing Programs

Date: October 1, 2016

STAFF RECOMMENDATION

Staff recommends that ORS review Section 130-63 of the Town Code, relative to Vehicles for Hire and provide direction to staff regarding this matter.

GENERAL INFORMATION

At the June 9, 2016, ORS Committee meeting, staff presented highlights of the ordinance adopted by the Board of County Commissioners on April 19, 2016, regulating vehicles for hire, including internet-based ride sharing programs. Staff reported that said ordinance would apply to all municipalities, including the Town of Palm Beach, unless we chose to modify and apply our own ordinance regulating same. The highlights of the County ordinance include:

- Industry would be divided into taxi and non-taxi operations; latter would include both Uber-style firms and limousines and sedans.
- The County's DCA would conduct audits of company records twice a year.
- Taxis and limos must be identified by either a decal issued by the county DCA or by "trade dress," a distinctive display that identifies its use.
- Vehicle age limits would be removed, but all vehicles would have to be inspected regularly by a mechanic certified by the National Institute for Automotive Service Excellence.
- Taxis and vehicles that transport disabled people for non-medical trips must go to the DCA and be visually inspected to ensure they are being operated and are equipped both safely and as the company has indicated.
- All insurance would have to conform to Florida law.
- Drivers must have an ID badge issued by the DCA or have an acceptable digital or smartphone app.
- For all drivers, employers must conduct background checks or hire the county to do fingerprint-based "Level II" checks. Those who do the latter would get a 50 percent discount in county fees.
- Requirement for a firm to have a physical office in Palm Beach County would be eliminated.

EXHIBIT B

After much discussion, the ORS Committee recommended that Town Council rescind Ordinance No. 08-2015 and follow the new County vehicle for hire ordinance. Subsequent to the June 9 ORS meeting, staff realized that rescinding Ordinance No. 08-2015 would also eliminate the maximum number of permits currently provided by the Town for limousines and taxicabs, per Section 130-63 of the Town Code. Therefore, staff is seeking further direction from ORS regarding this matter prior to presenting an Ordinance to Town Council to rescind Ordinance No. 08-2015.

Attachments

cc: Kirk Blouin, Director of Public Safety
Jane Struder, Director of Finance
John C. Randolph, Town Attorney



TOWN OF PALM BEACH

Office of the Town Clerk

REPORT OF THE ORDINANCES, RULES, AND STANDARDS COMMITTEE MEETING HELD ON THURSDAY, JUNE 9, 2016

I. CALL TO ORDER AND ROLL CALL

The Ordinances, Rules, and Standards Committee (ORS) meeting was called to order on June 9, 2016, at 9:30 a.m., in the Town Council Chambers. On roll call, all Committee Members were found to be present.

II. APPROVAL OF AGENDA

Motion was made by Committee Member Moore, and seconded by Committee Chair Lindsay, to approve the Agenda. On call for a vote, the motion carried unanimously.

III. COMMUNICATIONS FROM CITIZENS – *None*

IV. REGULAR AGENDA

A. Old Business

1. Potential Regulation of Internet-Based Ride Sharing Programs (*Jay Boodheshwar, Deputy Town Manager*)

Deputy Town Manager Boodheshwar provided an overview of the recent vehicle for hire ordinance for internet-based ride sharing services that was approved by Palm Beach County.

Town Attorney Randolph spoke regarding the County's ordinance addressing the Town's safety concerns and recommend that the Town not opt out of the County's ordinance.

Discussion ensued regarding the County's ordinance adequately addressing the Town's safety concerns and rescinding the Town's prior ordinances.

It was the consensus of the Committee to recommend that the Town Council rescind Ordinance No. 08-2015 and its approval on first reading of Ordinance No. 10-2015, and that the Town not opt out of the County's adopted Vehicle for Hire Ordinance.

EXHIBIT B

Sec. 130-63. - Approval of application; denial.

It has been determined by the town council that the maximum number of permits necessary to provide for the public convenience and necessity in the town is 50 limousine permits and 25 taxicab permits. The initial 25 taxicab permits will be issued by way of a random selection process in a manner to be determined by the town. Taxicab permits are only valid for use in the town from 9:00 p.m. to 4:00 a.m. the following day. Taxicabs permitted by the town may operate outside the hours specified herein when operating on the private property of a hotel for the benefit of hotel guests with the express permission of the hotel operator. If the town finds that the applicant favorably meets the criteria stated in section 130-62, the application shall be approved and a certificate of public convenience granted along with the permits applied for thereunder, subject, however, to the availability therefor. If it is found that the applicant does not favorably meet the criteria stated in section 130-62, the application shall be denied. A denial may be conditional, and the applicant will be given an opportunity to provide further information or take other action which will result in the approval of the application, or final, and no further action will be taken or permitted under the application.

(Ord. No. 13-2012, § 1, 8-14-12; Ord. No. 10-2014, § 1, 9-9-14)



Memo

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

Jay,

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

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

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

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

EXHIBIT C

November 7, 2016

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

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

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

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

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

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

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

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

EXHIBIT C

November 7, 2016

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

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

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

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TOWN OF PALM BEACH

Information for Town Council Meeting on: May 10, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: Jay Boodheshwar, Deputy Town Manager

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

DATE: May 2, 2016

STAFF RECOMMENDATION

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

GENERAL INFORMATION

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

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

TOWN ATTORNEY REVIEW

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

Attachment

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

ORDINANCE NO. 08-2016

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

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

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

Sec. 14-35. – Drones; Model Aircraft

(a) Purpose.

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

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

(b) Definition.

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

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

EXHIBIT C

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

(c) Prohibition.

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

(d) Exemptions.

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

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

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

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

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

EXHIBIT C

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

(f) Permit Application.

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

(g) Penalty.

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

Section 2. Severability.

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

EXHIBIT C

Section 3. Repeal of Ordinances in Conflict.

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

Section 4. Codification.

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

Section 5. Effective Date.

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

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

Gail L. Coniglio, Mayor

Michael J. Pucillo, Town Council President

Richard M. Kleid, President Pro Tem

Bobbie Lindsay, Town Council Member

ATTEST:

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

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FOR IMMEDIATE RELEASE:

Federal Aviation Administration (FAA) Recognizes Local Authority in New Drone Regulations

JUNE 23, 2016

WASHINGTON — In a win for local governments and local decision-making authority, new rules issued this week by the Federal Aviation Administration (FAA) on unmanned aviation systems (UAS), commonly known as drones, recognize that city leaders should play a role in regulating how, when and where drones operate in their communities. The new rules put in place a number of new regulations, including hours of operation, height and line of sight requirements.

"Cities commend the FAA for taking this important step in acknowledging that broad federal preemption would represent an overreach into regulations that have always been left to city officials, because these decisions are best handled at the local level," said **Clarence E. Anthony, CEO and executive director of the National League of Cities (NLC)**. "We hope that this can be an opportunity for the drone industry to work with city leaders, rather than trying to sidestep them at the state and federal level. We look forward to working in partnership with those who seek to promote innovation and new job opportunities within our nation's cities."

The rules come at a time when local governments have been under attack by broad federal and state-level efforts to preempt local authority. In the final rule, the FAA stated that the agency was "not persuaded that including a preemption provision in the final rule is warranted at this time," concluding

that "certain legal aspects concerning small UAS use may be best addressed at the state or local level."

In April, the U.S. Senate produced a bipartisan amendment that stripped federal preemption language from their long-term FAA reauthorization bill. The amendment, sponsored by Senators Feinstein (D-CA), Tillis (R-NC), Blumenthal (D-CT), Purdue (R-GA), Lee (R-UT) and Markey (D-MA), was adopted by Senate Commerce Committee leadership in a package of bipartisan amendments to the underlying bill, but did not receive a vote due to procedural reasons. The House Transportation and Infrastructure Committee passed their version of the reauthorization bill without preemption language earlier this year, but the bill has not yet been brought to the floor for a vote.

The National League of Cities (NLC) is dedicated to helping city leaders build better communities. NLC is a resource and advocate for 19,000 cities, towns and villages, representing more than 218 million Americans. www.nlc.org

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ORDINANCE NO. 2016-10

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA; AMENDING THE CITY CODE BY AMENDING CHAPTER 30 "ENVIRONMENT", BY CREATING ARTICLE VIII "DRONE REGULATIONS AND PRIVACY PROTECTIONS", BY CREATING SECTION 30-210 "DRONE RESTRICTIONS AT PUBLIC GATHERINGS"; TO REGULATE AND RESTRICT DRONE USE IN AND OVER OUTDOOR PUBLIC GATHERINGS, AND BY CREATING SECTION 30-211 "PROTECTION OF PRIVACY FROM DRONE USE" TO PROVIDE FOR A CODE ENFORCEMENT MECHANISM CONCERNING ANY USE OF A DRONE THAT VIOLATES INDIVIDUAL PRIVACY AS PROTECTED BY SECTION 934.50, FLORIDA STATUTES; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR PENALTY; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Aventura ("City") finds that it is necessary to amend Chapter 30 "Environment" of the City Code to restrict Drone operations at outdoor public gatherings within the City, and to afford a means of protecting personal privacy from Drone intrusions via City Code enforcement mechanisms; and

WHEREAS, the City Commission has held the required public hearing, duly noticed in accordance with law; and

WHEREAS, the City Commission finds that this proposed Ordinance serves to further enhance the protection of the public health, safety and welfare.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above-stated recitals is hereby adopted and confirmed.

EXHIBIT C

City of Aventura Ordinance No. 2016-10

Section 2. **City Code Amended.** That Article VIII "Drone Regulations and Privacy Protections" is hereby created within Chapter 30 "Environment" of the City Code, consisting of Section 30-210 " Drone Restrictions at Public Gatherings", and Section 30-211 " Protection of Privacy from Drone Use ", to read as follows:

ARTICLE VIII. DRONE REGULATIONS AND PRIVACY PROTECTIONS

Section 30-210. Drone Restrictions at Public Gatherings.

(a) *Purpose and intent.* This Section is intended to promote public safety and protect people attending outdoor public gatherings from dangers posed by the flying of unmanned aircraft systems (the "UAS" or "Drones") in and over such public gatherings. The City Commission wishes to regulate the use of Drones at outdoor venues where people gather, such as parks and athletic field facilities, open spaces and similar areas that may attract groups of people. The restrictions of this Section are intended to protect persons gathered in groups where a Drone incident would cause greater harm and risk of injury due to a greater number of people gathered in a close proximity. This Section shall not be construed to conflict with FAA regulations, but rather to operate in conjunction with those regulations to promote public safety.

(b) *Definitions.* As used herein, the following terms shall have the meaning which is indicated below:

Operator shall mean the person or corporation that operates or controls a Drone.

Public Gatherings shall mean an outdoor area within the City of Aventura at which more than fifty (50) people congregate or assemble to observe and/ or participate in an athletic or sporting event, festival, show, outdoor movie, concert, exhibit, or engage in an organized demonstration or similar free speech activity, which is held in a public space, open space, plaza, street, park, athletic field, school grounds, shopping center or mall parking lot, or any open-air facility, when the time, date and location of such Public Gathering is posted on the City's website for the purpose of providing advance notice to the public and Drone Operators. The date of such posting on the City's website shall be at least three (3) days prior to the date of the Public Gathering in order to be considered effective notice under this provision.

Unmanned aircraft systems (UAS or Drone) shall mean a powered, aerial vehicle as defined in Section 934.50(2)(a), Florida Statutes, which statutory definition is hereby incorporated herein.

(c) *Prohibitions.* Unless otherwise exempt under this Section, a Drone is prohibited from being deployed, launched or flown in any airspace within or over any Public Gathering, as

City of Aventura Ordinance No. 2016-10

defined above. Accordingly, no person shall deploy, launch or fly a Drone in any airspace within or over a Public Gathering in the City.

(d) *Exemptions.* This Section shall not prohibit the use of a Drone by any law enforcement or fire rescue agency, public utility, or local, county, regional, state, or federal governmental agency for lawful purposes and operated in a lawful manner. Notwithstanding the prohibitions set forth in this Section, nothing in this Section shall be construed to apply to any person who demonstrates that such person is expressly authorized by the Federal Aviation Administration to operate a Drone in City air space at a Public Gathering, in accordance with the authority granted by the Federal Aviation Administration.

(e) *Enforcement.*

- (1) *Penalty.* Any person in violation of any provision of this Section shall be subject to the penalty provided in Section 1-14 of the City Code. However, in addition to, or in lieu of any such penalty, the City shall have the power to sue in civil court and/or to enforce the provisions of this Section before its code enforcement special magistrate established in Chapter 2, Section 2-331, et. seq. of the Code of the City of Aventura, as amended.
- (2) In addition to the penalties referenced above, a Drone operated in violation of this Section may be impounded by a Police Officer of the City and held until the conclusion of the applicable court or code enforcement proceedings.

Section 30-211. Protection of Privacy from Drone Use.

- (1) **SHORT TITLE.** — This Section may be cited as the “Drone Privacy Protection Ordinance.”
- (2) **DEFINITIONS.** — As used in this Section, the term:
 - (a) “*Drone*” means a powered, aerial vehicle as defined in Section 934.50(2)(a), Florida Statutes, which statutory definition is hereby incorporated herein.
 - (b) “*Image*” means a record of thermal, infrared, ultraviolet, visible light, or other electromagnetic waves; sound waves; odors; or other physical phenomena which captures conditions existing on or about real property or an individual located on that property.
 - (c) “*Imaging device*” means a mechanical, digital, or electronic viewing device; still camera; camcorder; motion picture camera; or any other instrument, equipment, or format capable of recording, storing, or transmitting an image.

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(d) “*Surveillance*” means:

1. With respect to an owner, tenant, occupant, invitee, or licensee of privately owned real property, the observation of such persons with sufficient visual clarity to be able to obtain information about their identity, habits, conduct, movements, or whereabouts; or
2. With respect to privately owned real property, the observation of such property’s physical improvements with sufficient visual clarity to be able to determine unique identifying features or its occupancy by one or more persons.

(3) PROHIBITED USE OF DRONES.

- (a) A person shall not use a Drone equipped with an Imaging Device to record an Image of privately owned real property or of the owner, tenant, occupant, invitee, or licensee of such property with the intent to conduct Surveillance on the individual or property captured in the Image in violation of such person’s reasonable expectation of privacy without his or her written consent. For purposes of this Section, a person is presumed to have a reasonable expectation of privacy on his or her privately owned real property if he or she is not observable by persons located at ground level in a place where they have a legal right to be, regardless of whether he or she is observable from the air with the use of a Drone.
- (b) No person shall engage in conduct which is prohibited by paragraph (a) above.
- (c) This Section is intended to prohibit conduct by a person that would give rise to a cause of action under Section 934.50(5)(b), Florida Statutes, as authorized by Florida Attorney General Opinion 16-04(2016).

(4) EXCEPTIONS. — This section does not prohibit the use of a Drone:

- (a) By a person or an entity engaged in a business or profession licensed by the state, or by an agent, employee, or contractor thereof, if the Drone is used only to perform reasonable tasks within the scope of practice or activities permitted under such person’s or entity’s license. However, this exception does not apply to a profession in which the licensee’s authorized scope of practice includes obtaining information about the identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character of any society, person, or group of persons.
- (b) By an employee or a contractor of any local, county, state or federal governmental agency who uses a Drone solely for governmental purposes.
- (c) To capture Images by or for an electric, water, or natural gas utility:

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1. For operations and maintenance of utility facilities, including facilities used in the generation, transmission, or distribution of electricity, gas, or water, for the purpose of maintaining utility system reliability and integrity;
 2. For inspecting utility facilities, including pipelines, to determine construction, repair, maintenance, or replacement needs before, during, and after construction of such facilities;
 3. For assessing vegetation growth for the purpose of maintaining clearances on utility rights-of-way;
 4. For utility routing, siting, and permitting for the purpose of constructing utility facilities or providing utility service; or
 5. For conducting environmental monitoring, as provided by federal, state, or local law, rule, or permit.
- (d) For aerial mapping, if the person or entity using a Drone for this purpose is operating in compliance with Federal Aviation Administration regulations.
- (e) To deliver cargo, if the person or entity using a Drone for this purpose is operating in compliance with Federal Aviation Administration regulations.
- (f) To capture Images necessary for the safe operation or navigation of a Drone that is being used for a purpose allowed under federal or Florida law.

(5) ENFORCEMENT FOR VIOLATION.

The City may initiate City code enforcement proceedings, and impose administrative fines and costs, pursuant to Section 2-331, et. seq. of Chapter 2 of the City Code against any person in violation of paragraph (3) of this Section, at the written request of the owner, tenant, occupant, invitee, or licensee of privately owned real property within the City who is aggrieved by a violation of this Section or Section 934.50(3)(b), Florida Statutes. Alternatively, such code enforcement proceedings may be commenced upon the City's own initiative.

Section 3. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any

EXHIBIT C

City of Aventura Ordinance No. 2016-10

part.

Section 4. Inclusion in the Code. That it is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Aventura; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Penalty. That any person who violates any provisions of Section 30-210 of this Ordinance shall, upon conviction, be punished by a fine not to exceed \$500.00 or imprisonment in the County jail not to exceed sixty (60) days or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate violation. This Ordinance shall also be subject to enforcement under the Local Government Code Enforcement Act, Chapter 162, F.S., as amended, and City Code Section 2-331, et. seq., as amended. Enforcement may also be by suit for declaratory, injunctive or other appropriate relief in a court of competent jurisdiction.

Section 6. Implementation.

- A. That the City Manager is authorized to take any action which is necessary to implement and enforce this Ordinance.
- B. Further, the City Manager is authorized to investigate the potential purchase and deployment of technological devices and systems which may enable the safe immobilization of drones which are found to be operated in violation of this Ordinance or applicable laws within the City.

Section 7. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

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City of Aventura Ordinance No. 2016-10

The foregoing Ordinance was offered by Commissioner Cohen, who moved its adoption on first reading. This motion was seconded by Commissioner Narotsky, and upon being put to a vote, the vote was as follows:

Commissioner Enbar Cohen	<u>Yes</u>
Commissioner Teri Holzberg	<u>Yes</u>
Commissioner Marc Narotsky	<u>Yes</u>
Commissioner Robert Shelley	<u>Yes</u>
Commissioner Howard Weinberg	<u>Yes</u>
Vice Mayor Denise Landman	<u>Yes</u>
Mayor Enid Weisman	<u>Yes</u>

The foregoing Ordinance was offered by Commissioner Holzberg who moved its adoption on second reading. This motion was seconded by Commissioner Weinberg and upon being put to a vote, the vote was as follows:

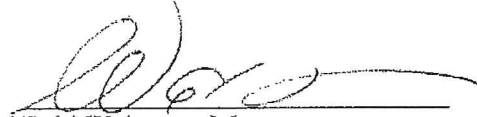
Commissioner Enbar Cohen	<u>Yes</u>
Commissioner Teri Holzberg	<u>Yes</u>
Commissioner Marc Narotsky	<u>Yes</u>
Commissioner Robert Shelley	<u>Yes</u>
Commissioner Howard Weinberg	<u>Yes</u>
Vice Mayor Denise Landman	<u>Yes</u>
Mayor Enid Weisman	<u>Yes</u>

EXHIBIT C

City of Aventura Ordinance No. 2016-10

PASSED AND ADOPTED on first reading this 3rd day of May, 2016.

PASSED AND ADOPTED on second reading this 7th day of June, 2016.

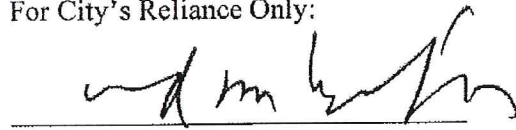

Enid Weisman, Mayor



ATTEST:


Ellisa L. Horvath, MMC
City Clerk

Approved as to Form and Legal Sufficiency
For City's Reliance Only:


City Attorney

Select Year: 2016 ▼ Go

The 2016 Florida Statutes

Title XLVII
CRIMINAL PROCEDURE AND
CORRECTIONS

Chapter 934
SECURITY OF COMMUNICATIONS;
SURVEILLANCE

[View Entire
Chapter](#)

934.50 Searches and seizure using a drone.—

(1) SHORT TITLE.—This act may be cited as the “Freedom from Unwarranted Surveillance Act.”

(2) DEFINITIONS.—As used in this act, the term:

(a) “Drone” means a powered, aerial vehicle that:

1. Does not carry a human operator;
2. Uses aerodynamic forces to provide vehicle lift;
3. Can fly autonomously or be piloted remotely;
4. Can be expendable or recoverable; and
5. Can carry a lethal or nonlethal payload.

(b) “Image” means a record of thermal, infrared, ultraviolet, visible light, or other electromagnetic waves; sound waves; odors; or other physical phenomena which captures conditions existing on or about real property or an individual located on that property.

(c) “Imaging device” means a mechanical, digital, or electronic viewing device; still camera; camcorder; motion picture camera; or any other instrument, equipment, or format capable of recording, storing, or transmitting an image.

(d) “Law enforcement agency” means a lawfully established state or local public agency that is responsible for the prevention and detection of crime, local government code enforcement, and the enforcement of penal, traffic, regulatory, game, or controlled substance laws.

(e) “Surveillance” means:

1. With respect to an owner, tenant, occupant, invitee, or licensee of privately owned real property, the observation of such persons with sufficient visual clarity to be able to obtain information about their identity, habits, conduct, movements, or whereabouts; or
2. With respect to privately owned real property, the observation of such property’s physical improvements with sufficient visual clarity to be able to determine unique identifying features or its occupancy by one or more persons.

(3) PROHIBITED USE OF DRONES.—

(a) A law enforcement agency may not use a drone to gather evidence or other information.

(b) A person, a state agency, or a political subdivision as defined in s. 11.45 may not use a drone equipped with an imaging device to record an image of privately owned real property or of the owner, tenant, occupant, invitee, or licensee of such property with the intent to conduct surveillance on the individual or property captured in the image in violation of such person’s reasonable expectation of privacy without his or her written consent. For purposes of this section, a person is presumed to have a reasonable expectation of privacy on his or her privately owned real property if he or she is not

observable by persons located at ground level in a place where they have a legal right to be, regardless of whether he or she is observable from the air with the use of a drone.

(4) EXCEPTIONS.—This section does not prohibit the use of a drone:

(a) To counter a high risk of a terrorist attack by a specific individual or organization if the United States Secretary of Homeland Security determines that credible intelligence indicates that there is such a risk.

(b) If the law enforcement agency first obtains a search warrant signed by a judge authorizing the use of a drone.

(c) If the law enforcement agency possesses reasonable suspicion that, under particular circumstances, swift action is needed to prevent imminent danger to life or serious damage to property, to forestall the imminent escape of a suspect or the destruction of evidence, or to achieve purposes including, but not limited to, facilitating the search for a missing person.

(d) By a person or an entity engaged in a business or profession licensed by the state, or by an agent, employee, or contractor thereof, if the drone is used only to perform reasonable tasks within the scope of practice or activities permitted under such person's or entity's license. However, this exception does not apply to a profession in which the licensee's authorized scope of practice includes obtaining information about the identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character of any society, person, or group of persons.

(e) By an employee or a contractor of a property appraiser who uses a drone solely for the purpose of assessing property for ad valorem taxation.

(f) To capture images by or for an electric, water, or natural gas utility:

1. For operations and maintenance of utility facilities, including facilities used in the generation, transmission, or distribution of electricity, gas, or water, for the purpose of maintaining utility system reliability and integrity;

2. For inspecting utility facilities, including pipelines, to determine construction, repair, maintenance, or replacement needs before, during, and after construction of such facilities;

3. For assessing vegetation growth for the purpose of maintaining clearances on utility rights-of-way;

4. For utility routing, siting, and permitting for the purpose of constructing utility facilities or providing utility service; or

5. For conducting environmental monitoring, as provided by federal, state, or local law, rule, or permit.

(g) For aerial mapping, if the person or entity using a drone for this purpose is operating in compliance with Federal Aviation Administration regulations.

(h) To deliver cargo, if the person or entity using a drone for this purpose is operating in compliance with Federal Aviation Administration regulations.

(i) To capture images necessary for the safe operation or navigation of a drone that is being used for a purpose allowed under federal or Florida law.

(5) REMEDIES FOR VIOLATION.—

(a) An aggrieved party may initiate a civil action against a law enforcement agency to obtain all appropriate relief in order to prevent or remedy a violation of this section.

(b) The owner, tenant, occupant, invitee, or licensee of privately owned real property may initiate a civil action for compensatory damages for violations of this section and may seek injunctive relief to prevent future violations of this section against a person, state agency, or political subdivision that violates paragraph (3)(b). In such action, the prevailing party is entitled to recover reasonable attorney

EXHIBIT C

fees from the nonprevailing party based on the actual and reasonable time expended by his or her attorney billed at an appropriate hourly rate and, in cases in which the payment of such a fee is contingent on the outcome, without a multiplier, unless the action is tried to verdict, in which case a multiplier of up to twice the actual value of the time expended may be awarded in the discretion of the trial court.

(c) Punitive damages for a violation of paragraph (3)(b) may be sought against a person subject to other requirements and limitations of law, including, but not limited to, part II of chapter 768 and case law.

(d) The remedies provided for a violation of paragraph (3)(b) are cumulative to other existing remedies.

(6) PROHIBITION ON USE OF EVIDENCE.—Evidence obtained or collected in violation of this act is not admissible as evidence in a criminal prosecution in any court of law in this state.

History.—s. 1, ch. 2013-33; s. 1, ch. 2015-26.

Sec. 37-12. - Public safety and unmanned aircraft systems, commonly known as drones.

(a) *Purpose and intent.* This section is intended to promote public safety and protect people attending large venue public events from the flying of unmanned aircraft systems ("UAS") in and over such large public events. The city commission wishes to regulate the use of UAS within a half-mile radius around stadiums and sport facilities when these devices are in use, and over other large venue special events in public parks, public facilities, streets, plazas, open spaces and the like that will attract large groups of people. All restrictions are intended to protect persons gathered in groups where a UAS incident would cause greater harm and risk of injury due to a greater number of people gathered in a close proximity. It is not intended to restrict legitimate hobbyists operating UAS in compliance with FAA rules and any other applicable laws, and outside of the prohibited areas. This Section is not intended to preempt FAA rules, but rather to operate in conjunction with those rules to promote public safety while recognizing the limitation in the FAA's enforcement capabilities.

(b) *Definitions.*

Applicant shall mean the person or corporation that registers their UAS provided all the requirements in the code have been met.

Large venue special event shall mean any event held in a public space, open space, plaza, street, park, stadium, or any open-air facility or closed-air facility that is open to the public, ticketed and/or non-ticketed audience and is an event intended to attract people. A large venue special event includes but is not limited to, a sporting event, concert, festival, protest, etc.

Unmanned aircraft systems (UAS) shall mean an unmanned aircraft or unmanned aircraft system that can fly under the control of a remote pilot or by global positioning system (GPS) guided autopilot mechanism. UAS are more commonly known as "drones."

(c) *Prohibitions.*

- (1) Unless otherwise exempt under this section, UAS are prohibited from being deployed, launched or flown in any airspace within or over any sporting and/or large venue special event, including but not limited to, over and within a half-mile radius of Bayfront Park, Marlins Ballpark, Miami Marine Stadium, or the Calle Ocho Festival when it is in use during a large venue special event, and over public parks and public facilities during large venue special events.
- (2) In all other areas of the city, the following restrictions shall apply:
 - a. UAS may not be larger than five pounds including any attachments, and may not be equipped with detachable cargo, releasable payload, or any device equipped to carry a weapon. Any modifications to a UAS must be pursuant to FAA approval and registered via the city's application process.
 - b. UAS over five pounds may be operated only by a registered member of the Academy of Model Aeronautics (AMA), if the operator is subjected to and compliant with AMA rules. Notwithstanding the weight limit, all other provisions of this section shall apply.
 - c. Conditions in subsections (2)a. and b. above shall be included as conditions in the application process.

(d) *Application.*

- (1) An application is required for certain activities so that city officials and employees can regulate activities which would tend to damage private/public property, endanger the public or event attendees, or which are likely to create an atmosphere which would discourage use of city-owned property, other locations or venues for their intended purpose.
- a. The application form shall be completed by the applicant.
 - b. The application shall be processed and approved by the appropriate city official (s) and departments as is accustomed through the city's regular special event and temporary event process as established in the City Code in chapters 54 and 62 prior to allowing the use of a UAS pursuant to this article.
 - c. The applicant's form shall require the name of applicant, valid governmental issued identification, current address and phone number(s) of applicant, photograph of UAS to be registered, UAS name and serial number or product number, and statement of purpose for use of the UAS.
 - d. Applications must be made at least 14 days prior to requested usage time of UAS to ensure proper review of application by city officials.
 - e. The city manager is authorized to establish fees for the processing of applications pursuant to this article. Thereafter, the city manager shall set and annually revise and adjust said fees, if necessary, prior to the first day of September, and such revised fees shall become effective the first day of October of each fiscal year via an administrative memorandum. In reviewing the existing schedule of fees to determine whether or not to revise and adjust the same, the city manager shall take into consideration any one, or all of the following criteria: (i) purpose and type of event(s) or program(s) conducted at the city-owned properties or at the large venue special events, including benefits to the community; (ii) operating expenses of the application process described herein; (iii) and/or other factors deemed appropriate by the city manager. At any time, the city manager shall be authorized to negotiate the fee for all applications to use UAS above should it be determined that the current schedule of fees does not properly address a particular type of event.
 - f. Same—Rules and conditions. The following rules and conditions shall apply to applications sought pursuant to this section:
 1. UAS activity described in this article is allowed on a first come, first served basis.
 2. Applications are nontransferable, and are valid only on the date specified thereon.
 3. The applicant shall be held responsible for any damage and be liable to any third party.
 4. The applicant shall observe, obey and comply with the rules and regulations established by this section, as well as all applicable city, county, state and federal laws, rules and regulations.
 5. The applicant shall assume all risk in the use of the UAS and shall be solely responsible and answerable in damages for all accidents and injury to person or property, as well as fines in connection with violations of this section or other applicable law.
 6. Special conditions related to safety may be imposed for particular large venue special events depending upon occupancy or other safety considerations.
- (e) *Exemptions.* This section shall not prohibit the use of UAS by an applicant under this section or by any law enforcement or fire rescue agency for lawful purposes and operated in a lawful manner. Notwithstanding the prohibitions set forth in this section, nothing in this section shall be construed to prohibit, limit, or otherwise restrict any person who is authorized by the Federal Aviation

Administration to operate small unmanned aircraft in any city air space, pursuant to Sections 331—336 of the FAA Modernization and Reform Act of 2012 or certificate of waiver, certificate of authorization, or airworthiness certificate under section 44704 of Title 49 of United States Code or other Federal Aviation Administration grant of authority for a specific flight operation or operations, from conducting such operation(s) in accordance with the authority granted by the Federal Aviation Administration.

(f) *Enforcement.*

- (1) *Penalty.* Any person in violation of any provision of this section shall be subject to the penalty as provided in section 1-13; however, in addition to, or in lieu of any criminal prosecution, the city shall have the power to sue in civil court and to enforce the provisions of this article before its code enforcement board established in chapter 2, article X of the Code of the City of Miami as amended. In addition to the penalties referenced above, a UAS operated in violation of this chapter will be impounded and held until the conclusion of the court or code enforcement proceedings.
- (2) *Release and disposal.* Following the city's receipt of the request for an adversarial hearing by the owner of the UAS, the city shall schedule such hearing to take place before a hearing officer within 45 days. The hearing officer shall conduct a full adversarial hearing, and will render a decision in writing at the conclusion of the hearing. At the hearing, it shall be the city's burden to demonstrate a violation of this section. If the hearing officer finds that the city has not met this burden, it shall relinquish possession of the UAS to the owner. Formal rules of evidence shall not apply at the hearing and hearsay and circumstantial evidence shall be admissible. Title to any unclaimed UAS lawfully impounded pursuant to this section in the custody of the city shall vest permanently in the city 60 days after the conclusion of the proceeding in accordance with F.S. § 705.105, as amended.

(g) *Liability and insurance.*

- (1) Prior to the finalization of the application, the applicant/operator shall furnish to the city a signed statement, approved by the city attorney, that the applicant/operator shall hold-harmless, indemnify and defend the city, its elected officials, officers, and employees for any claims for damages to property or injury to persons which may be occasioned by any activity carried on under the terms of the application.
- (2) Applicant shall furnish and maintain such public liability and property damage insurance to protect from all claims and damage to property or bodily injury which may arise from operations under the application or in connection therewith subject to an assessment by risk management.

(Ord. No. 13581, § 2, 12-10-15)

Sec. 21-55. - Radio-controlled model aircraft.

The following restrictions regulate the flying of radio-controlled model aircraft within the City:

- (1) *Roads, streets and alleys.* Radio-controlled model aircraft shall not be flown over any improved roads, streets or alleys within the City.
- (2) *Private property.* Radio-controlled model aircraft shall not be flown over private property without the written permission of the owner of that property.
- (3) *Identification.* Radio-controlled model aircraft flown within the City limits shall have the name and address of the owner displayed on the aircraft.
- (4) *Operating under the influence.* No person shall operate a radio-controlled model aircraft when:
 - a. The person is under the influence of alcoholic beverages, any chemical substance set forth in F.S. § 877.111, or any substance controlled under F.S. ch. 893 when affected to the extent that his normal faculties are impaired; or
 - b. The person has a blood or breath alcohol level of 0.10 percent or higher.
- (5) *FCC approved equipment.* Radio-controlled model aircraft and all equipment associated therewith shall meet the requirements of the Federal Communication Commission.
- (6) *General restrictions; City property.* General restrictions with respect to flying radio-controlled model aircraft over City-owned property are as follows:
 - a. The flying of radio-controlled model aircraft over City-owned property is prohibited except between 9:00 a.m. and sunset.
 - b. No radio-controlled model aircraft flown over City-owned property shall have an engine which exceeds a noise level of 96 decibels at three meters from the engine. Those radio-controlled model aircraft having a two-cycle engine shall have a muffler attached if they are flown over City-owned property
 - c. Any radio-controlled model aircraft flown over City-owned property shall weigh no more than 11 pounds.
 - d. Radio-controlled model aircraft shall not be flown at any time over any City-owned property that is posted by the POD with a sign prohibiting such flying of radio-controlled model aircraft.
 - e. Radio-controlled model aircraft shall not be flown over a recreational facility located on a City Park when the facility is being used for the purpose that the facility was intended. By way of illustration and not limitation, golf courses are intended for the playing of golf, soccer fields are intended for the playing of soccer and baseball fields are intended for the playing of baseball. Notwithstanding the foregoing, if a park permit has been issued for a designated area that includes a recreational facility, and that park permit provides for the flying of radio-controlled model aircraft then the flying of radio-controlled model aircraft shall be allowed in accordance with the permit without regard to any use being made of that recreation facility.
 - f. Radio-controlled model aircraft shall not be flown over any City-owned parking lot.

(Code 1992, § 21-59; Ord. No. 694-G, § 1, 11-4-2004)

Sec. 28-41. - Aviation; bicycles and vehicles.

- (a) *Aviation.* No person shall launch or land within or upon any park, preserve or littoral waters any manned airplane, balloon, parachute, hang glider, or other aerial device (excluding kites), except that certain areas may be designated appropriate landing places for medical evacuation helicopters, law enforcement, or official government aviation equipment unless authorized by the director.
- (b) *Confined to roads.* No person shall ride an all terrain vehicle (ATV), bicycle, scooter, skateboard, or roller blades/skates in any area other than an area designated for that purpose.
- (c) *Operation.* All persons shall ride a bicycle in a safe manner as directed by the F.S. ch. 316, to include F.S. § 316.2065.
- (d) *Rider prohibited.* No person shall ride any other person on a bicycle that is designed for use by only one person.
- (e) *Designated racks.* No person shall leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available.
- (f) *Immobile.* No person shall leave a bicycle lying on the ground or paving, or set against trees, or in any place or position where other persons may trip over or be injured by them.
- (g) *Mountain biking.* Mountain biking activity shall be limited to areas specifically designated for this sport.
- (h) *Roller blades, roller skates, scooters, skateboards.* Roller blades, roller skates, scooters, and skateboards must be used only in areas specifically designated for that purpose.
- (i) *Golf carts.* Golf carts may be used in public parks, in areas specifically designated for that purpose and the city park road system if the posted speed limit is 35 miles per hour or less. Golf carts may be operated only during the hours between sunrise and sunset, unless equipped with headlights, brake lights, turn signals, and a windshield. A golf cart must be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear. A golf cart may not be operated by any person under the age of 14.
- (j) *Human transporter devices (a/k/a segways).* Human transport devices or similar self-balancing, electric powered transportation devices may be used on city park property in the same manner as bicycles are permitted in this section, or if being used as an other power driven mobility device ("OPDMD") by individuals with mobility disabilities, in accordance with the "parks and recreation mobility policy" adopted June 19, 2013, as it may be amended from time to time. Law enforcement on duty may use a human transport device in any location of the park facilities.
- (k) *Unmanned aircraft.* Any person who obtains a special event permit may use a drone to photograph their special event in the park during the course of the event. For hobby or recreational use, unmanned remote control non-occupied planes and drones may only be flown at Community Park, unless there is a concessionaire agreement. Use of unmanned aircraft may only occur when the fields are unoccupied. Operation of any unmanned aircraft must be done so as to not be flown within 25 feet of people, power lines, buildings or light fixtures. Any delivery service or commercial use of drones must obtain the consent of the parks and recreation director through the use of a written concessionaire agreement for operation on any city lands.

(Ord. No. 09-08, § 23, 6-3-2009; Ord. No. 11-10, § 23, 8-17-2011; Ord. No. 14-026, § 1, 11-6-2014)

Sec. 34-5. - Aircraft.

Aircraft of any kind shall not land or take off within the city limits without prior approval of the city council, except for the city sponsored celebration, or in the case of immediate medical or other life-threatening emergencies where prior city council approval cannot reasonably be obtained.

(Ord. No. 86-6, § 1, 5-19-1986; Ord. No. 87-5, § 1, 5-4-1987)

6/1/16



U.S. Department
of Transportation

Southern Region
Office of the Regional Counsel

P.O. Box 20636
Atlanta, Georgia 30320

**Federal Aviation
Administration**

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

CERTIFIED MAIL

MAY 26 2016

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

Re: City of Aventura Proposed UAS/Drone Ordinances

Dear Mr. Wolpin:

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

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

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

EXHIBIT C

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

Sincerely,

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

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

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: November 10, 2016

To: Ordinances, Rules & Standards Committee

From: Jay Boodheshwar, Deputy Town Manager

Re: Potential Amendment of Town Code, Relative to Maintenance of Sidewalks

Date: October 1, 2016

STAFF RECOMMENDATION

Staff recommends the Ordinance, Rules and Standards (ORS) Committee consider a potential amendment of the Town Code of Ordinances, relative to maintenance of sidewalks.

GENERAL INFORMATION

Section 106-156 of the Town Code of Ordinances address maintenance of sidewalks and gutters. It states that “it shall be unlawful for any person owning and/or occupying any lot or part of a lot in the town to omit to keep the abutting paved sidewalk clean and free of debris and the gutters adjoining the same free from encumbrance and obstruction. Responsibility for repair and maintenance of sidewalks located within town rights-of-way shall be the responsibility of the town except where damage to same is caused by the abutting property owner, his agents or representatives”. There is no definition of “debris” in this section of the Code, so it is not clear if dirt build-up, mold and algae are addressed.

The Town pressure washes concrete sidewalks annually in commercial districts and tabby sidewalks twice per year when paid for by adjacent property owners. Town staff also performs annual inspections of all sidewalks to identify cracks and tripping hazards. Between \$20,000 to 24,000 is spent annual to remedy issues of concern. Pressure washing to address dirt build-up, mold and algae on residential sidewalks has historically not been done by the Town. Most adjacent property owners keep the sidewalks and gutters adjacent to their homes clean and free of all debris, including dirt, mold and algae, as a part of their routine landscape/hardscape maintenance. However, there are situations in which cleaning of adjacent sidewalks is not done frequently enough, which creates an unsightly and potentially unsafe situation.

It is recommended that ORS discuss and determine if it is appropriate and reasonable to define “debris” to include dirt, mold, algae and other unsightly build-up and require cleaning by the adjacent property owner.

cc: John C. Randolph, Town Attorney
H. Paul Brazil, P.E., Director of Public Works
Karen Temme, Risk Manager

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: November 10, 2016

To: Ordinances, Rules & Standards Committee

From: Jay Boodheshwar, Deputy Town Manager

Re: Proposed 2017 ORS Committee Meeting Dates

Date: November 3, 2016

STAFF RECOMMENDATION

Staff recommends approval of the 2017 ORS meeting schedule as proposed below.

GENERAL INFORMATION

To ensure pending items are addressed in the coming months, while looking ahead to the summer and fall, staff has prepared a proposed 2017 meeting schedule for ORS consideration. The meeting dates are below and subject to change and/or cancellation as deemed necessary by the committee. Meetings are on Thursdays and would begin at 9:30AM in Council Chambers.

January 12, 2017
February 2, 2017
March 2, 2017
April 6, 2017
May 4, 2017
June 1, 2017

July 2017 – NO MEETING
August 2017 – NO MEETING
September 7, 2017
October 5, 2017
November 2, 2017
December 7, 2017

UPCOMING MEETINGS

As a reminder, the schedule of items to be considered in the coming months include the following:

December 8, 2016

1. Carry-over Items from November Meeting (If Necessary)
2. Further Review of Parking Situation on Worth Avenue (*Old Business - TMO*)
3. Review Potential Designation of Mooring and Anchoring Areas within the Jurisdictional Boundaries of the Town (*Old Business - PD*)
4. Potential Code Change to Address Advertising Signage on Vehicles (*New Business - PD*)
5. Potential Ban on Balloons and Plastic Bags on or Near Beaches (*New Business - TMO*)
6. Potential Amendment of Town Code, Relative Charitable Solicitation Permits (*New Business - TCO*)

EXHIBIT E

January 12, 2017

1. Carry-over Items from Previous Meetings (If Necessary)
2. Potential Ban on Leaf Blowers (PD)

cc: Thomas G. Bradford, Town Manager
Department Directors
John C. Randolph, Town Attorney
Veronica Close, Assistant Director of PZB
William Bucklew, Building Official
Paul Castro, Zoning Administrator
Nicholas Caristo, Police Department Lieutenant
Susan Owens, Town Clerk