



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, September 8, 2016
9:30AM

- I. CALL TO ORDER AND ROLL CALL
Bobbie Lindsay, Chair
Danielle H. Moore, Committee Member
- II. APPROVAL OF AGENDA
- III. COMMUNICATIONS FROM CITIZENS
- IV. REGULAR AGENDA
 - A. Old Business
 - 1. Further Concerns Regarding Shark Fishing on Public Beaches
(Benjamin Alma, Code Enforcement and Parking Manager)
 - 2. Review of Drone Ordinance for Conflicts with New FAA Regulations and Permitting Requirements
(Benjamin Alma, Code Enforcement and Parking Manager)
 - 3. Potential Amendment of Town Code of Ordinances, Relative to Landscape Maintenance
(Benjamin Alma, Code Enforcement and Parking Manager)
 - 4. Re-Codification of Town Code of Ordinances
(Susan Owens, Town Clerk)

B. New Business

1. Potential Amendment to Town's Administrative Amendments to the Florida Building Code Regarding the Number of General Contractors Permitted to Work at a Building Permit Site
(William C. Bucklew, Building Official)

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; Kathleen Dominguez, Deputy Town Clerk; John C. Randolph, Town Attorney

Date: 9/5/2016

Re: Agenda Items for the September 8, 2016, ORS Meeting

This memorandum and its attachments serve as the backup material associated with the agenda for your ORS meeting on September 8, 2016, at 9:30am. Below is the list of agenda items and related exhibits, which provides background information for each matter.

Old Business

1. Further Concerns Regarding Shark Fishing on Public Beaches
(Benjamin Alma, Code Enforcement and Parking Manager)

Mr. Alma will present research findings, relative to actions the Town may be able to take to regulate shark fishing along the Town's shoreline, including a draft ordinance he has prepared. Please see Exhibit A for details regarding this item.

2. Review of Drone Ordinance for Conflicts with New FAA Regulations and Permitting Requirements
(Benjamin Alma, Code Enforcement and Parking Manager)

Mr. Alma will present proposed modifications to the Town's drone ordinance in response to recent changes to FAA regulations and concerns expressed regarding our permitting process. Please see Exhibit B for details regarding this item.

3. Potential Amendment of Town Code of Ordinances, Relative to Landscape Maintenance
(Benjamin Alma, Code Enforcement and Parking Manager)

Mr. Alma will present the findings of the research requested by ORS at its August 15 meeting, as well as a draft ordinance to modify hours in which motorized landscaping equipment are prohibited. Please see Exhibit C for details regarding this item.

4. Re-Codification of Town Code of Ordinances
(Susan Owens, Town Clerk)

Ms. Owens will provide background information, the current status, and proposed plan to complete the re-codification effort that began a few years ago. Please see Exhibit D for details regarding this item.

New Business

1. Potential Amendment to Town's Administrative Amendments to the Florida Building Code Regarding the Number of General Contractors Permitted to Work at a Building Permit Site
(William C. Bucklew, Building Official)

Mr. Bucklew will present proposed modifications to the Town's Administrative Amendments to the Florida Building Code to address concerns regarding the number of general contractors permitted to work at a project site. Please see Exhibit E for details regarding this item.

Attachments

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: September 08, 2016

To: Ordinances, Rules and Standards Committee

Via: Jay Boodheshwar, Deputy Town Manager

From: Benjamin Alma, Code Enforcement Manager

Re: Further Concerns Regarding Shark Fishing on Public Beaches

Date: September 01, 2016

STAFF RECOMMENDATION

Staff requests the Ordinance, Rules and Standards (ORS) Committee review a request to, “Prohibit Shark Fishing or Chumming Within Three Hundred Feet (300’) North and South of Municipal Beaches and Public Beach Access Points.”

GENERAL INFORMATION

Complaints have been made to the Town from residents who are concerned for their safety and the safety of children on the beaches adjacent to shark fishing activities. These concerns have been presented multiple times to the ORS Committee.

Subsequent to the last meeting ORS discussed this item, staff has communicated with the following people to obtain their input in developing a balanced ordinance to regulate this activity: Melinda Colon from the Shorebound Angler’s Alliance and Melissa Recks and Alan Peirce from the State of Florida Fish and Wildlife Commission (FWC). They have suggested that a public education campaign may be the best approach to resolving these types of problems.

There is currently no provision in the Town’s Code of Ordinances prohibiting shark fishing or chumming. And due to the fact that the Town cannot completely prohibit this activity due to FWC preemption, an ordinance regulating it may be the best approach to minimizing concerns.

SHARK FISHING:

(A) No shark fishing shall be permitted within three hundred feet (300’) north and south of municipal beaches and within three hundred feet (300’) north and south of public beach access points;

(B) No baiting or chumming shall be allowed on or within three hundred feet (300’) north and south of municipal beaches and within three hundred feet (300’) north and south

of public beach access points. Baiting or chumming is defined as using cut up or ground up bait to put an attracting scent line on or below the surface of the water, or to visually attract other fish; this shall not prohibit someone from using a piece of cut bait on an individual line that is used for general fishing;

(C) The use of shark lures and rigs shall be strictly prohibited within three hundred feet (300') north and south of municipal beaches and within three hundred feet (300') north and south of public beach access points; and

(D) All accidental shark catches must be cut loose.

REVIEW BY TOWN ATTORNEY

Prior to finalizing an ordinance for first ready, the Town Attorney will review and approve the proposed language. In addition to creating an ordinance regulating chumming and shark fishing, a fine would be established, via a companion ordinance, for violations and added to Chapter 2-439 of the Code.

cc: Kirk W. Blouin, Director of Public Safety

TOWN OF PALM BEACH

Information for Ordinances, Rules & Standards Meeting on: September 8, 2016

To: Ordinances, Rules and Standards Committee

From: Jay Boodheshwar, Deputy Town Manager

Re: Review of Drone Ordinance for Conflicts with New FAA Regulations and Permitting Requirements

Date: September 5, 2016

STAFF RECOMMENDATION

Staff recommends the Ordinance, Rules and Standards (ORS) Committee of the Town Council to provide direction to staff regarding changes to the Code of Ordinances, relative to drones/model aircraft takeoff and/or landing within the jurisdiction of the Town of Palm Beach.

GENERAL INFORMATION

Earlier this year Town Council approved Ordinance 08-2016, which amended Town Code of Ordinances at Chapter 14, Article II - Aircraft, to include a new Section 14-35 – Drones/Model Aircraft. Said ordinance prohibits the operation of drones and model aircraft (as defined in the ordinance) but provided for exceptions and permitted uses.

Subsequent to the adoption of Ordinance 08-2016, the Town learned that its ordinance may be preempted by the FAA as the Town does not have authority to regulate its airspace. Therefore, the attached draft ordinance has been prepared to regulate the takeoff and/or landing of drones and model aircraft within the Town's jurisdiction.

Staff will be prepared to also discuss permitting requirements and potential changes to the timeline for obtaining a permit, among other topics related to this item. Please see attached communications regarding our current ordinance and related new articles in preparation for discussion.

Attachment

ORDINANCE NO. XX-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; SECTION 14-35, "DRONES; MODEL AIRCRAFT"; 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, 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-take-off and landing~~ of drones and model aircraft within the jurisdiction of the Town of Palm Beach, they could be used to invade the privacy of Town residents who are enjoying the use of their property.

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

(b) Definition.

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

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

- f) Model aircraft of less than three pounds and which do not carry a camera are not included within this definition.
- (c) Prohibition.

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

- (d) Exemptions.

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

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

Drone/model aircraft operation used for educational, environmental or commercial purposes may be permitted ~~by to take off and land within~~ the Town of Palm Beach, subject to the operating 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;~~
- Must comply with FAA requirements regarding operations within a certain proximity to airports;
- May not have an airspeed in excess of 100 mph;
- ~~Must have a minimum weather visibility of 3 miles;~~

- Must be operated between sunrise and sunset;
- May not be operated in a careless or reckless manner;
- Operator must demonstrate that the person operating the drone has no physical or mental condition that would interfere with the safe operation of the drone;
- Applicant shall provide a minimum of \$1,000,000.00 of liability insurance for the use of drones and model aircraft;
- Operator and model aircraft equipment must meet all current FAA requirements for commercial UAV operations;
- Must be properly registered with the FAA according to FAA guidelines.

(f) Permit Application.

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

(g) Penalty.

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

Section 2. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect

without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. Repeal of Ordinances in Conflict.

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

Section 4. Codification.

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

Section 5. Effective Date.

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

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this ____ day of _____, 2016, and for second and final reading on this ____ day of _____, 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

FAA News



Federal Aviation Administration, Washington, DC 20591

June 21, 2016

SUMMARY OF SMALL UNMANNED AIRCRAFT RULE (PART 107)

Operational Limitations	• Unmanned aircraft must weigh less than 55 lbs. (25 kg). • Visual line-of-sight (VLOS) only; the unmanned aircraft must remain within VLOS of the remote pilot in command and the person manipulating the flight controls of the small UAS. Alternatively, the unmanned aircraft must remain within VLOS of the visual observer. • At all times the small unmanned aircraft must remain close enough to the remote pilot in command and the person manipulating the flight controls of the small UAS for those people to be capable of seeing the aircraft with vision unaided by any device other than corrective lenses. • Small unmanned aircraft may not operate over any persons not directly participating in the operation, not under a covered structure, and not inside a covered stationary vehicle. • Daylight-only operations, or civil twilight (30 minutes before official sunrise to 30 minutes after official sunset, local time) with appropriate anti-collision lighting. • Must yield right of way to other aircraft. • May use visual observer (VO) but not required. • First-person view camera cannot satisfy "see-and-avoid" requirement but can be used as long as requirement is satisfied in other ways. • Maximum groundspeed of 100 mph (87 knots). • Maximum altitude of 400 feet above ground level (AGL) or, if higher than 400 feet AGL, remain within 400 feet of a structure. • Minimum weather visibility of 3 miles from control station. • Operations in Class B, C, D and E airspace are allowed with the required ATC permission. • Operations in Class G airspace are allowed without ATC permission. • No person may act as a remote pilot in command or VO for more than one unmanned aircraft operation at one time. • No operations from a moving aircraft. • No operations from a moving vehicle unless the operation is over a sparsely populated area. • No careless or reckless operations. • No carriage of hazardous materials.
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	• Requires preflight inspection by the remote pilot in command. • A person may not operate a small unmanned aircraft if he or she knows or has reason to know of any physical or mental condition that would interfere with the safe operation of a small UAS. • Foreign-registered small unmanned aircraft are allowed to operate under part 107 if they satisfy the requirements of part 375. • External load operations are allowed if the object being carried by the unmanned aircraft is securely attached and does not adversely affect the flight characteristics or controllability of the aircraft. • Transportation of property for compensation or hire allowed provided that- - o The aircraft, including its attached systems, payload and cargo weigh less than 55 pounds total; - o The flight is conducted within visual line of sight and not from a moving vehicle or aircraft; and - o The flight occurs wholly within the bounds of a State and does not involve transport between (1) Hawaii and another place in Hawaii through airspace outside Hawaii; (2) the District of Columbia and another place in the District of Columbia; or (3) a territory or possession of the United States and another place in the same territory or possession. • Most of the restrictions discussed above are waivable if the applicant demonstrates that his or her operation can safely be conducted under the terms of a certificate of waiver.
Remote Pilot in Command Certification and Responsibilities	• Establishes a remote pilot in command position. • A person operating a small UAS must either hold a remote pilot airman certificate with a small UAS rating or be under the direct supervision of a person who does hold a remote pilot certificate (remote pilot in command). • To qualify for a remote pilot certificate, a person must: - o Demonstrate aeronautical knowledge by either: ▪ Passing an initial aeronautical knowledge test at an FAA-approved knowledge testing center; or ▪ Hold a part 61 pilot certificate other than student pilot, complete a flight review within the previous 24 months, and complete a small UAS online training course provided by the FAA. - o Be vetted by the Transportation Security Administration. - o Be at least 16 years old. • Part 61 pilot certificate holders may obtain a temporary remote pilot certificate immediately upon submission of their application for a permanent certificate. Other applicants will obtain a temporary remote pilot certificate upon successful completion of TSA security vetting. The FAA anticipates that it will be able to issue a temporary remote pilot certificate within 10 business days after receiving a completed remote pilot certificate application. • Until international standards are developed, foreign-

	certificated UAS pilots will be required to obtain an FAA-issued remote pilot certificate with a small UAS rating. A remote pilot in command must: • Make available to the FAA, upon request, the small UAS for inspection or testing, and any associated documents/records required to be kept under the rule. • Report to the FAA within 10 days of any operation that results in at least serious injury, loss of consciousness, or property damage of at least \$500. • Conduct a preflight inspection, to include specific aircraft and control station systems checks, to ensure the small UAS is in a condition for safe operation. • Ensure that the small unmanned aircraft complies with the existing registration requirements specified in § 91.203(a)(2). A remote pilot in command may deviate from the requirements of this rule in response to an in-flight emergency.
Aircraft Requirements	• FAA airworthiness certification is not required. However, the remote pilot in command must conduct a preflight check of the small UAS to ensure that it is in a condition for safe operation.
Model Aircraft	• Part 107 does not apply to model aircraft that satisfy all of the criteria specified in section 336 of Public Law 112-95. • The rule codifies the FAA's enforcement authority in part 101 by prohibiting model aircraft operators from endangering the safety of the NAS.



Fwd: Feedback on Ordinance 08-2016

Bobbie to: tbradford, JBoodheshwar

06/23/2016 03:23 PM

History:

This message has been replied to.

In light of FAA rules we may need to tweak ordinance. Bobbie

Sent from my iPhone

Begin forwarded message:

From: TCouncil@TownofPalmBeach.com

Date: June 17, 2016 at 4:56:07 PM EDT

Subject: Fw: Feedback on Ordinance 08-2016

----- Forwarded by Cheryl Kleen/PalmBeach on 06/17/2016 04:56 PM -----

From: "Matt Swinden" <matt@theswindengroup.com>

To: <council@townofpalmbeach.com>, <mayor@townofpalmbeach.com>

Date: 06/16/2016 04:58 PM

Subject: Feedback on Ordinance 08-2016

Dear Mayor and members of the Palm Beach Town Council.

I'll just jump to the chase, clearly the Town Council has not thought of the unintended consequences with Ordinance 08-2016:

- 1) **The Town of Palm Beach does not control the airspace above the town limits.** The town cannot limit where a model aircraft or drone can fly once it has taken off.
- 2) **Infringing on the First Amendment.** You are now requiring a permit to fly a UAS. The media is beginning to use UAS in their work. By requiring a permit, you are infringing on the media's and general public's First Amendment.
- 3) **Stifling growth and killing business.** I am an aerial photographer specializing in real estate photography, and I regularly use a UAS. All of my projects are scheduled 24 hours to 7 days in advance. With a 30 day permit, that will exclude me from obtaining a permit, not to mention cost prohibitive. This ordinance is a business killer.
- 4) **Curtailling educational opportunities for our youth as UAS technology is a hot topic in our schools.** With the permitting process AND \$1,000,000.00, students will not be able fly their projects.
- 5) **Hindering insurance companies** by not allowing adjusters and inspectors to use UASs in the time of a natural disaster.

This is a bad law based on nothing but fear.....and you fell for it. UASs, while equipped with cameras, make for a lousy surveillance tool. The cell phone you have in your pocket has a better camera, but have you regulated cell phone camera? If you are truly worried about the safety of the citizens of Palm Beach, then cars would be heavily regulated, baseball and golfs would be prohibited as those two round balls cause more damage and injury per year than a UAS or model aircraft.

So in one fell swoop, the Town Council has managed to infringe on the First Amendment Rights of its citizens, killed a flourishing business, stifled educational opportunities for our youth.....all because you believed the hype and hysteria of the use of drones. Ordinance 08-2016 needs to be vetoed before the town winds up in Federal Court on a First Amendment issue.

Best Regards,

Matt Swinden

Matt Swinden – Senior Photographer

Mediamax, Inc.

(303) 988-7497 Main

(303) 406-3622 Mobile

www.MediamaxPhotography.com

www.mattswindenphotography.com



Follow me on:  



Fw: Ordinance 08-2016 adversely affects residents

Thomas G. Bradford to: jrandolph

Cc: Jay Boodheshwar

06/24/2016 04:20 PM

FYI

Thomas G. Bradford
Town Manager
Town of Palm Beach
360 South County Road
P.O. Box 2029
Palm Beach, FL 33480
Telephone: (561) 838-5410
Fax: (561) 838-5411
Email: tbradford@townofpalmbeach.com

----- Forwarded by Thomas G. Bradford/PalmBeach on 06/24/2016 04:20 PM -----

From: Town Manager/PalmBeach
To: Thomas G. Bradford/PalmBeach@PalmBeach
Date: 06/24/2016 04:19 PM
Subject: Fw: Ordinance 08-2016 adversely affects residents
Sent by: Cheryl Kleen

----- Forwarded by Cheryl Kleen/PalmBeach on 06/24/2016 04:19 PM -----

From: Chad Budreau <chadb@modelaircraft.org>
To: "townmanager@townofpalmbeach.com" <townmanager@townofpalmbeach.com>
Cc: "jrandolph@jonesfoster.com" <jrandolph@jonesfoster.com>
Date: 06/24/2016 03:52 PM
Subject: RE: Ordinance 08-2016 adversely affects residents

I wanted to follow up on our email from last week.

We agree ordinances should restrict unsafe operations. Regulations, such as Ordinance 08-2016 should not run counter to federal regulations and should not harm the educated and responsible modeling community including the 1,293 Palm Beach area residents who have a \$2.5 million dollar insurance policy and strictly follow federal and AMA's strict Safety Code.

While Ordinance 08-2016 has already passed, we would like the city to consider recognizing federal preemption and federal law including Section 333 and 336 in the 2012 FAA Modernization and Reform Act.

The courts continue to clarify federal jurisdiction most recently as this week in LA
<http://www.comptontakesflight.com/blog/2016/6/22/yhkaqez7zovflmjadl261amkljc2qd>.

We'd be happy to discuss amendments to the Ordinance.

Best,

Chad

Chad Budreau
Academy of Model Aeronautics
Government Relations and Public Affairs
765.287.1256 x227
chadb@modelaircraft.org

From: Chad Budreau
Sent: Friday, June 17, 2016 3:39 PM
To: 'townmanager@townofpalmbeach.com' <townmanager@townofpalmbeach.com>
Cc: 'jrandolph@jonesfoster.com' <jrandolph@jonesfoster.com>
Subject: Ordinance 08-2016 adversely affects residents

The Academy of Model Aeronautics (AMA) is a nationwide, community-based organization of more than 188,000 model aviation enthusiasts; 17,191 being residents of Florida and 1,293 living in the Palm Beach area. I write today on behalf of our members in opposition to Ordinance 08-2016.

While many of the provisions are well intended, Ordinance 08-2016 will cause unneeded harm to model aviation, which has a history of being a wholesome, recreational, and educational activity. This ordinance could also hinder innovation, through what will be a rapidly growing commercial industry.

We agree with Palm Beach's efforts to protect residents' rights, including a reasonable expectation of privacy. As we engage with other cities, states, and law enforcement operations across the country, we consistently conclude that existing tort laws are already enforceable on criminal actions involving UAS. A violation of privacy is a criminal act regardless if committed using binoculars, a cell phone, a camera, a UAS, or any other tool.

Therefore our first task is that Palm Beach rely on existing tort laws to penalize criminal acts, and not write ordinances targeting UAS and model hobbyist.

As you may know, many provisions in this ordinance violate federal jurisdiction. We support FAA's public statement on December 15, 2015 stating federal preemption of state and local drone regulations. There should not be a *"patchwork quilt"* of different restrictions across the country which will severely limit the flexibility of the FAA and cause confusion among users. *"[N]o state or local government may impose an additional registration requirement...."* The FAA has preemption over *"A city ordinance banning anyone from operating UAS within city limits... or within certain distances of landmarks."*

The courts have confirmed FAA jurisdiction in numerous cases such as *"Northwest Airlines v. State of Minnesota (Supreme Court) and Burbank vs. Lockheed Air Terminal Inc. (Supreme Court), and Gustafson v. City of Lake Angeles (US Court of Appeals).* The Senate is also reinforcing FAA's position in the latest draft of the FAA Modernization and Reform Act by saying, no local government can enact a law about the licensing, registration, operation, or qualifications of UAS.

Should Palm Beach choose to keep Ordinance 08-2016, we ask it be modified to recognize federal preemption and include the 333 and 336 exemptions from the 2012 FAA Modernization and Reform Act. These exemptions are commonly found in city ordinances throughout the country. Below is Miami's

exemption text:

"...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."

While we agree the common recreational model generally should not exceed 55lbs or exceed 100mph, Sections 333 and 336 do allow for those special exceptions. Adopting an exemption, like the text above, would allow for those special use cases without causing a law abiding citizen compliant with federal regulations to unjustly face local criminal penalties.

Thirdly, we ask that Palm Beach remove or revise the restrictions of UAS by persons with physical or mental conditions. Modeling is a great activity commonly used by disabled military vets, in youth rehabilitation programs, and in physical therapy. Ordinance 08-2016 would unfairly exclude Palm Beach residents from the positive benefit of modeling found in stories such as <http://newstimes.augusta.com/news/2012-11-28/juvenile-court-pilot-programs-trains-young-flyers> and <http://modelaviation.com/healinghobby>.

Our final ask is to remove the permitting required for educational use of UAS. The FAA released a legal brief on May 4, 2016 expanding the protections of academic use of UAS and reducing the needs for permits and waivers. We agree with the FAA's jurisdiction and position of encouraging the use of UAS as a teaching tool, and ask that it no be unnecessarily burdened with restrictions.

Without these changes, this bill will negatively impact the model aircraft community of Florida, which boasts an 80-year history of safe and responsible flying. We would be happy to continue the conversation and encourage you to contact us anytime.

Sincerely,

Chad Budreau
Academy of Model Aeronautics
Government Relations and Public Affairs
765.287.1256 x227
chadb@modelaircraft.org

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)

AVIATION

FAA signs off on small commercial drones

BY JOAN LOWY ASSOCIATED PRESS



A hexacopter drone is shown during a demonstration for board members of the National Corn Growers last year in Cordova, Md. Routine commercial use of small drones got the green light from the Federal Aviation Administration on Tuesday after years of struggling to write regulations for them. ALEX BRANDON / ASSOCIATED PRESS

WASHINGTON — Routine use of small drones by real estate agents, farmers, filmmakers and countless other commercial operators was cleared for takeoff by the Obama administration Tuesday, after years of struggling to write rules that would both protect public safety and exploit the benefits of a new technology.

The Federal Aviation Administration announced the creation of a new category of aviation rules designed specifically for drones

weighing less than 55 pounds. The long-anticipated rules mean commercial operators can fly drones without special permission.

Industry and government officials describe commercial drones as the biggest game-changing technology in aviation since the advent of the jet engine.

“This is a watershed moment in how advanced technology can improve lives,” said Brendan Schulman, a vice president at DJI, the world’s largest civilian drone-maker.

Jason Miller, an Obama economic adviser, said the rules are the first step toward full integration of drones in the national airspace system.

Until now, commercial operators have had to apply for a waiver from rules that govern manned aircraft, a process that can be time-consuming and expensive.

Since 2014 the FAA has granted more than 6,100 waivers and another 7,600 are waiting for approval. Many more small companies have been using drones without FAA permission, say industry officials.

Unless those operators make a serious mistake that brings them to the FAA’s attention, there’s not a lot the agency can do to track them down. The new rules would provide an easier way for those businesses to operate legally.

The rules also would effectively lift the lid on flights by other potential operators who have held off using the technology: ranchers who want to count cattle, research scientists, and companies that inspect infrastructure like bridges, oil platforms and smokestacks, to name a few.

Under the new rules, operators would register their drones online and pass an aviation knowledge exam for drone pilots at an FAA-approved testing center. Operators currently have to have a manned

EXHIBIT B

aircraft pilot's license. Operators also would have to follow many of the rules that apply to model aircraft hobbyists, like keeping drones within sight at all times and not flying over people or higher than 400 feet.

Other important limitations also remain in place. Drone flights will be permitted only during the day and at twilight. Drone industry officials have long complained that restricting drone flights to daytime precluded a great many uses for drones, such search-and-rescue operations. Operators, however, could still seek waivers of restrictions.

The rules permit commercial transport of goods by drones for the first time. But the restrictions on flying drones out of line-of-sight and over people preclude delivery drones flying across cities and suburbs carrying small packages, as envisioned by Amazon. Amazon and Google are working on drone delivery systems for goods purchased online. Google officials have said they expect deliveries to begin sometime in 2017.

FAA Administrator Michael Huerta said the agency is researching how drone deliveries might safely be accomplished, but he declined to set a timetable.

What's missing from the rules is an enforcement mechanism, said Sarah Kreps, a Cornell University professor.

"It is hard to see how the (FAA) actually can ensure that these rules are followed," she said.

Congress has been prodding the FAA for more than a decade to write rules to provide civilian drones broad access to the national airspace. Initially, the agency put its emphasis on finding ways to enable larger drones like those used for military missions to safely fly at the same altitudes as other manned aircraft. Later, the agency shifted its focus to small drones when it became clear that the market for their uses was developing much faster.

EXHIBIT B

The FAA's slow pace led frustrated lawmakers to include a provision in a major aviation bill four years ago setting deadlines for the agency to issue regulations to safely integrate small drones by August 2014 and other drones by September 2015.

The new rules fulfill that first deadline.

EXHIBIT B

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Since 2014 the FAA has granted more than 6,100 waivers and another 7,600 are waiting for approval. Many more small companies have been using drones without FAA permission, say industry officials.

Unless those operators make a serious mistake that brings them to the FAA's attention, there's not a lot the agency can do to track them down. The new rules would provide an easier way for those businesses to operate legally.

The rules also would effectively lift the lid on flights by other potential operators who have held off using the technology — ranchers who want to count cattle, research scientists, and companies that inspect infrastructure like bridges, oil platforms and smokestacks, to name a few.

Under the new rules, operators would register their drones online, pass an aviation knowledge exam for drone pilots at an FAA-approved testing center and then they're good to go. That's a big change since operators currently have to have a manned aircraft pilot's license.

Operators also would have to follow many of the rules that apply to model aircraft hobbyists like keeping drones within sight at all times and not flying over people or higher than 400 feet.

EXHIBIT B

Other important limitations also remain in place. Drone flights will be permitted only during the day and at twilight. Drone industry officials have long complained that restricting drone flights to daytime precluded a great many uses like some search and rescue operations, agricultural operations best done after dark and roof inspections of commercial building roofs that use heat sensors.

Operators could still seek waivers to restrictions like nighttime flights, flights beyond sight of the operator and flights over people.

The rules permit commercial transport of goods by drones for the first time, but the other restrictions on flights beyond sight of the operator and over people still apply.

That precludes delivery drones flying across cities and suburbs clasping small packages as envisioned by Amazon. Amazon and Google are working on drone delivery systems for goods purchased online. Google officials have said they expect deliveries to begin sometime in 2017.

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The FAA's slow pace led frustrated lawmakers to include a provision in a major aviation bill four years ago setting deadlines for the agency to issue regulations to safely integrate small drones by August 2014 and other drones by September 2015.

The new rules fulfill that first deadline. The agency is also working on an array of other safety rules and standards to further broaden the circumstances under which drones can be flown. In April, FAA officials said they are working on regulations that would permit some commercial drones to fly over people and crowds based on recommendations from an industry advisory committee.

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Follow Joan Lowy at twitter.com/AP_Joan_Lowy. Her work can

TOWN OF PALM BEACH

Information for Ordinances, Rules & Standards Meeting on: September 8, 2016

To: Ordinances, Rules and Standards Committee

From: Jay Boodheshwar, Deputy Town Manager

Re: Potential Amendment of Town Code of Ordinances, Relative to Landscape Maintenance

Date: September 5, 2016

STAFF RECOMMENDATION

Staff recommends the Ordinance, Rules and Standards (ORS) Committee of the Town Council to provide final direction to staff regarding changes to the Code of Ordinances, relative to landscape maintenance noise and hours of operation.

GENERAL INFORMATION

At the August 15, 2016, ORS meeting significant discussion took place regarding landscape hours of operation and the use of leaf blowers. Staff was directed to complete additional research regarding a complete or partial ban of leaf blowers and try to find answers to the following questions. Attached is a report from Code Enforcement Manager, Ben Alma, outlining his findings.

- Check with a handful of towns who have banned blowers to see if and how much landscaping costs have changed.
- Ask towns who have banned gas powered blowers what the enforcement is like—how many citations are they giving to people using gas when only electric is allowed?
- Ask towns also about enforcement of total ban. How much enforcement did it take for how long to do this? May homeowners operate blowers?

The Committee decided it will recommend to council that during summer hours, landscapers can only do quiet work between 8:00am and 9:00am and between 5:00 pm and 6:00 pm. On Saturdays, only quiet work can be done. Attached is a summary of this decision in strike through/underline format. If ORS is in agreement with the changes an ordinance will be prepared by the Town Attorney and presented to Town Council at its October meeting for first reading.

Attachments



TOWN OF PALM BEACH Code Enforcement



September 1, 2016

To: Jay Boodheshwar, Deputy Town Manager

From: Benjamin Alma, Code/Parking Manager

Regarding Leaf Blower use within the Town of Palm Beach

Staff consideration and study issues from the August 2016, Ordinance, Rules and Standards (ORS) meeting:

In summary:

During the month of August 2016, Code Enforcement performed 19-inspections of leaf blowers. Two companies were issued warnings.

None of the Code Compliance Units I contacted, maintain data on private contracts between residents and a third party such as a landscaper. However I was directed to an organization: The Noise Pollution Clearinghouse, (<http://www.nonoise.org/>) which is a national non-profit organization with extensive online noise related resources.

In checking with a few towns that have banned/limited the use of blowers, I wanted to identify how much landscaping costs have changed if any:

“There were no reports of gardeners going out of business or raising their rates, though not all respondents could answer that question. Responses included; There are still plenty of Gardeners working in Berkeley, and Gardner’s are alive and well in Los Altos.” (www.nonoise.org/)

Towns who have banned gas powered blowers where asked how many citations are they giving to people using gas powered blowers when only electric is allowed?

No citations issues, only warnings were issued. Self-compliance is the goal.



TOWN OF PALM BEACH

Code Enforcement



Ask towns also about enforcement of total ban:

The only municipality I was able to locate with a total ban of motorized leaf blowers is Santa Monica, CA. This municipality made the property owners and property management companies responsible for their landscaper's actions. Santa Monica embarked on education program regarding their ordinance. After which, they then would issue a warning letter to the landscaper and the property owner(s). To date Santa Monica indicated that everyone has come into compliance.

How much enforcement, and for how long did it take to do this:

All of the code offices I spoke with, have all implemented an awareness campaign where upon they first issue a verbal warning, then a written warning to the property owner and the landscaper, and escalate from there.

May homeowners operate blowers:

Ordinance applies to everyone; exceptions have to be documented with advisement of legal counsel.

Cc. Lt. N. Caristo

Winter Landscaping Hours

December 1 – April 30 (5 months)

- Monday through Friday – Only quiet work from 8:00am to 9:00am (no machines or loud noises allowed until 9:00am)
- Monday through Friday – All landscaping work may start at 9:00am (lawnmowers, gas trimmers, blowers, etc. permitted)
- Monday through Friday – Stop all landscape work at 5:00pm
- Saturdays: Start work at 9:00am
Stop work by 5:00pm
Leaf blowers ~~allowed~~ permitted from 9:00am to 12:00pm only
Landscape maintenance only. No large scale landscape installation ~~allowed~~ permitted.
- Work not ~~allowed~~ permitted on Sundays and legal holidays

Summer Landscaping Hours

May 1 – November 30 (7 months)

- Work ~~allowed~~ permitted Monday through Saturday
- Start work at 8:00am (~~no leaf blowers~~ quiet work only until 9:00am)
- Stop work at 6:00pm (~~no leaf blowers~~ quiet work only after 5:00pm)
- Only quiet work permitted on Saturdays
- Work not ~~allowed~~ permitted on Sundays and Town observed legal holidays

Quiet Work: Defined as work which cannot be heard from the public right-of-way or from a neighboring property line.

Note: ~~Nothing in this section shall preclude the operation of lawn equipment by residents on Saturdays, Sundays or legal holidays.~~

TOWN OF PALM BEACH

Information for ORS Meeting on: September 8, 2016

To: Ordinances, Rules, & Standards Committee

Via: Jay Boodheshwar, Deputy Town Manager

From: Susan A. Owens, MMC, Town Clerk

Re: Recodification Project Update

Date: September 2, 2016

STAFF RECOMMENDATION

Staff is requesting direction from the Committee regarding its preferred process for the review and approval of the proposed changes included in the recodification of the Town's Code of Ordinances.

GENERAL INFORMATION

In 2014, Town Staff began the process of recodifying the Town's Code of Ordinances. Recodification refers to a process where existing codified ordinances are reformatted and rewritten into a new codified structure. This is often necessary as, over time, the legislative process of amending a municipality's Code and changes in state laws result in a Code that contains archaic terms, superseded text, and redundant or conflicting laws. In other words, the purpose of recodification is to periodically "clean up" a Code to ensure that it is consistent throughout, grammatically correct, contains up to date terminology and references, reflects changes in procedures over the years, and is compliant with the applicable changes in state law. Recodification is not meant to make substantive changes to a Code outside of the normal ordinance adoption process.

Although it varies depending upon municipal resources and the volume and significance of adopted ordinances and changes in state law since the Code was last recodified, municipalities generally recodify their Codes every ten to fifteen years. Due to the size and complexity of a typical municipal Code, it is not uncommon for the process of recodification to take several years. The Town's Code of Ordinances was last recodified in 1998; and, the process took approximately three years to complete.

In preparation for the Town's conference with its codifier to review and prepare a proposed legal manuscript for adoption by the Town Council, Town Staff is seeking direction from the Committee as to how it wishes to review the proposed changes in order to make its recommendation to the Town Council. In the current draft of the legal manuscript, there are over

1,060 pages. If the Committee chooses to review the entire manuscript page by page, it would take a considerable amount of time and delay other time-sensitive matters that the Town Council has assigned to the Committee. Another review option for the Committee to consider is having Staff prepare a comparative chart that is limited to the significant changes proposed.

An example of a significant change that would be included in this comparative chart would be the Oath of Office required for certain employees in Section 2-137 of the Code. Currently, the Code only requires officers of the Town, including appointive administrative officials (Town Manager, Deputy Town Manager, and Department Directors), to take an Oath of Office before entering upon the duties of their office. Since the Code was last recodified, the State adopted F.S. 876.05, which not only requires officers receiving public funds (any paid employee) to take an Oath of Office, but the Oath of Office required pursuant to that statute contains different verbiage than the Oath described in the Town Code. The draft proposed amendment to Section 2-137 of the Code would add a subsection (b) stating that, "Every employee of the Town, including appointive administrative officials, shall take the Oath of Office required pursuant to F.S. 876.05 before entering upon the duties of his or her office."

An example of a non-significant change that would not be included in this comparative chart would be the title of the position that assumes the role and responsibilities of the Council President in his or her absence. Sections 2-32 and 2-33 of the Code call this position "President Pro Tempore"; however, as the Committee is aware, this position is currently called "President Pro Tem".

A third option for the Committee to consider is reviewing, discussing, and making recommendations on only the significant changes proposed in the above mentioned comparative chart, and having Staff provide Committee Members with a full copy of all proposed changes for informational purposes. Should a Committee Member have questions on, or wish to discuss further, a proposed change not included in the comparative chart, that item could always be added to the Committee's agenda for same.

Staff will be happy to address any questions or concerns of the Committee regarding the Recodification Project and/or the review and approval process for the proposed changes included therein.

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: September 8, 2016

To: Ordinances, Rules, & Standards Committee

Via: Jay Boodheshwar, Deputy Town Manager

From: William C. Bucklew, CBO, Building Official

Re: Building Code Provision from Town Administrative Amendments Regarding
Primary Contractors at a Single Building Site

Date: August 31, 2016

STAFF RECOMMENDATION

Staff is requesting that the ORS Committee review and provide comments on a potential revision to the Town's Administrative Amendments to the Florida Building Code, Chapter 1, Section 105.1.1 Supervision. Staff is proposing to modify this requirement to allow more than one primary contractor on a job site.

GENERAL INFORMATION

Through the Town's Administrative Amendments (Chapter 1) of the Florida Building Code, Section 105.1.1 titled "Supervision", the Town allows only one "primary" contractor on a job site. All other contractors seeking to work on the same job site must become a "subcontractor" to the designated primary. There are occurrences where this requirement becomes an issue and can actually hinder the progress of construction on a site. The issue becomes apparent especially when the work one contractor is doing is on the interior of a building and another contractor wants to do work on the exterior. The work is not related in any way, but Town Code currently requires the second contractor to become a "subcontractor" of the first. There are instances where contractors do not wish to be a subcontractor to another because of unrelated work. At present, the primary contractor must finish his work before the second contractor can apply for and be issued a permit. This has the potential for extending the length of projects while contractors wait for each other to finish.

There may be unknown ramifications in eliminating this requirement. Although it makes sense to shorten the entire "construction window" by allowing contractors to work at one site simultaneously, doing so may further aggravate service vehicle congestion on local streets. Staff is seeking ORS guidance. Contractors and owners sometimes express criticism of the Town's "1 GC" rule. A survey of surrounding municipalities indicates Palm Beach stands alone with this restriction.

TOWN ATTORNEY REVIEW

Any changes to the Town's Administrative Amendments will be reviewed by the Town Attorney prior to finalizing.

Attachment

- Current Administrative Code Requirement

Cc: Thomas G. Bradford, Town Manager
John S. Page, PZB Director
Veronica Close, PZB Assistant Director

105.1.1 Supervision. There shall be only one primary contractor per job site; all other contractors shall be required to become subcontractors to the primary contractor, unless otherwise approved by the building official. Electrical and plumbing work shall have full-time supervision by a certified journeyman on site where such work of any nature is in progress.