



TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE -
SUBJECT TO
REVISION

ORDINANCES, RULES AND STANDARDS COMMITTEE MEETING

AGENDA

Thursday, September 2, 2021
9:30 AM

Via Zoom Only

<https://us06web.zoom.us/j/82854666738>

I. CALL TO ORDER AND ROLL CALL

Julie Araskog, Committee Chair
Ted Cooney, Committee Member

II. PLEDGE OF ALLEGIANCE

III. APPROVAL OF AGENDA

IV. COMMUNICATIONS FROM CITIZENS

V. REGULAR AGENDA

A. Old Business

1. Review Draft Language to Regulate the Use of Synthetic Turf
Wayne Bergman, Director of Planning, Zoning and Building
2. Further Discussion Regarding Potential Modifications to the Native Landscape Section in Chapter 66 of the Town Code
Wayne Bergman, Director of Planning, Zoning and Building

B. New Business

1. Potential Limitations on Height of Vegetation Adjacent to Neighboring Structures
Wayne Bergman, Director of Planning, Zoning and Building

2. Review Chapter 42 of the Town Code, Sec. 42-230 – Lawn Maintenance, Relative to Hours, Equipment and Noise
Jay Boodheshwar, Deputy Town Manager
3. Prioritization of Pending Study Items for Review at Future ORS Meetings:
 - Truck Study Report
 - How Deviations from Approved ARCOM and LPC Plans are Handled
 - Chapter 42 of the Town Code, Article V – Noise*Jay Boodheshwar, Deputy Town Manager*

VI. ANY OTHER MATTERS

VII. 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 Technology (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.

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: September 2, 2021

To: ORS Committee Members

Via: Jay Boodheshwar, Deputy Town Manager

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

Re: Proposed Language for Inclusion in Chapter 66 of the Town Code, Relative to Regulation of Artificial Turf

Date: August 25, 2021

STAFF RECOMMENDATION

Staff requests that the ORS Committee review the draft language below, which would implement regulations pertaining to the installation of artificial turf if approved by Town Council.

GENERAL INFORMATION

At the July 1, 2021, ORS meeting, committee members and staff engaged in a robust discussion regarding the potential regulation of artificial turf within the Town. As reported by staff, artificial turf is not directly regulated by the Town Code at this time, but site plans and landscaping plans must be approved through a Commission review process. Landscape plans for redevelopment are studied by either the Landmarks Preservation Commission (for historically significant buildings or landmarked properties) or by the Architectural Review Commission (ARCOM) for all other properties. The current ARCOM Project Designation Manual and Guide lists artificial turf as a “Minor Project without Notice” for ARCOM and a Certificate of Appropriateness (C.O.A.) for the Landmarks Preservation Commission.

After much discussion at the July 1 meeting, the committee directed staff to prepare language for inclusion in Chapter 66 of the Town Code of Ordinances. Staff drafted the following language to address the definition of artificial turf, allowed locations, review and approval process, and installation standards. These draft text changes were presented to the Town Council on August 10, 2021, and the matter was referred back to the ORS Committee for additional review prior to consideration at the September 14, 2021, Council meeting.

Sec. 66-313. – Artificial Turf - Definition.

Artificial Turf - An artificial product manufactured from synthetic materials that simulates the appearance of natural turf, grass, sod or lawn.

Sec. 66-314. – Artificial Turf - Locations.

In all zoning districts, artificial turf Artificial turf/synthetic grass shall be reviewed and may be approved in accordance with the ARCOM Project Designation Manual, or Project Designation Guide for Landmarked and Historically Significant Building properties, and may be installed in only rear and side yards. Artificial turf/synthetic grass shall not be installed in any front yard areas or in any area visible from the public right-of-way (regardless of whether it is in the rear or side yard). No artificial turf shall be installed in the public right-of-way.

Sec. 66-315. – Artificial Turf - Standards.

- A. Artificial turf installation can only be approved by either the Architectural Review Commission or the Landmarks Preservation Commission (depending upon the property designation) and said installation requires a building permit.
- B. Artificial turf is calculated as impervious surface and shall not count towards landscape open space.

Staff did not include any language regarding how to deal with artificial turf that exists today. Once direction is received from ORS, staff will present the draft language to Town Council on September 14, 2021, for consideration. Approval of an ordinance via 2 readings at subsequent council meetings will be required to codify desired changes.

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: September 2, 2021

To: ORS Committee Members

Via: Jay Boodheshwar, Deputy Town Manager

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

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

Date: August 25, 2021

STAFF RECOMMENDATION

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

GENERAL INFORMATION

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

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

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

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

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

Attachments

ORDINANCE NO. 21-2018

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AT CHAPTER 66, NATURAL RESOURCE PROTECTION, AT ARTICLE 1, IN GENERAL, SECTION 66-2, DEFINITIONS; AT ARTICLE IV, VEGETATION, SECTION 66-212, PURPOSE AND INTENT; TO INCLUDE A NEW SECTION 66-285, GENERAL UNDER DIVISION 4, DESIGN REQUIREMENTS; AMENDING SECTION 66-286, WATER CONSERVING LANDSCAPE DESIGN; AND AMENDING SECTION 66-311, PROHIBITED PLANTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

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

Section 1. The foregoing recitals are hereby ratified and confirmed.

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

“Sec. 66-2. - Definitions.

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

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

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

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

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

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

Mulch means 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.

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

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

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

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

“DIVISION 1. - GENERALLY

Sec. 66-212. - Purpose and intent.

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

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

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

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

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

DIVISION 4. - DESIGN REQUIREMENTS

Sec. 66-285. – General

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

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

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

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

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

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

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

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

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

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

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

Section 7. Severability.

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

Section 8. Repeal of Ordinances in Conflict.

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

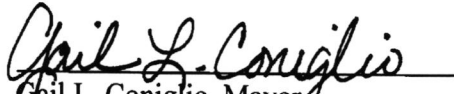
Section 9. Codification.

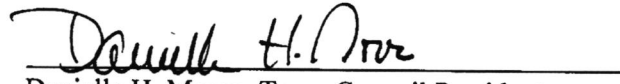
This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

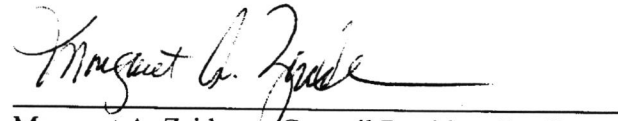
Section 10. Effective Date.

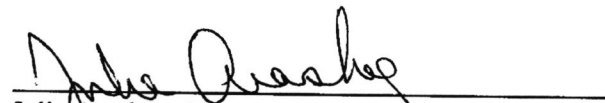
This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

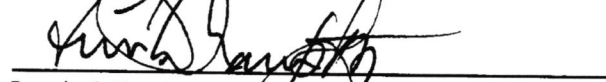
PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 19th day of March, 2019, and for second and final reading on this 9th day of April, 2019.


Gail L. Coniglio, Mayor

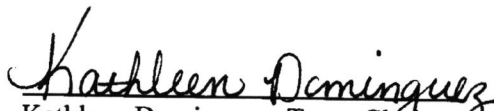

Danielle H. Moore, Town Council President


Margaret A. Zeidman, Council President Pro Tem


Julie Araskog, Town Council Member


Lewis S.W. Crampton, Town Council Member

ATTEST:


Kathleen Dominguez, Town Clerk


Bobbie Lindsay, Town Council Member



TOWN OF PALM BEACH

Information for ORS Meeting on: July 1, 2021

To: ORS Members

Via: Jay Boodheshwar, Deputy Town Manager

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

Re: Native Landscaping

Date: June 23, 2021

BACKGROUND

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

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

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

GENERAL INFORMATION

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

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

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

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

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

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

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

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

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

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

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

3. WHICH NATIVE LANDSCAPE LISTS SHOULD BE USED

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

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

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

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

4. OTHER CODE MATTERS REGARDING NATIVES

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

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

Attached:

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



Land Planning
Landscape Architecture
Landscape Management

June 28, 2021

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

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

TREES / PALMS

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

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

SHRUBS

No minimum amount of required shrubs.

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

25% of the QUANTITY – not COVERAGE

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

NOTE:

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

ARTIFICIAL TURF

Should be allowed for areas NOT visible from public ROW.

Should be counted as hardscape NOT LOS.

Should not exceed 10% of the total site.

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

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

For your consideration.

Sincerely,

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

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

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

Wayne Bergman

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

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

Good afternoon Wayne,

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

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

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

Maybe this is something George Gann can do for the city as a consultant? At the least we feel that the link for the IRC website should be made available so the interested parties could find the right plants for their zip code.

<https://www.regionalconservation.org/index.html>

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

It is a very good thing you all are doing!

A few of our research notes below:

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

SFWMD
Only a plant list

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

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

MIAMI

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

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

Kind Regards,

Amanda Eva Jungles

New Business + Communications Director

O: +1 305 858 6777 (x06)

C: +1 786 239 8041

Raymond Jungles, Inc.

2964 Aviation Avenue

Miami, FL 33133

www.raymondjungles.com

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

Wayne Bergman

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

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

Dear Wayne,

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

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

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

Hope this helps,
Jorge

Jorge A. Sánchez
SMI Landscape Architecture



P: 561.655.9006 || www.smila.net

Recipient of the Arthur Ross Award

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

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

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

Wayne Bergman

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

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

Hello Wayne!

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

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

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

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

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

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

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

Wayne Bergman

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

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

Good afternoon, Wayne,

Attached are several documents.

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

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

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

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

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

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

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

Let me know if there's any questions.

Have a great weekend!

Susan

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

TOWN OF PALM BEACH

Information for ORS Meeting on: September 2, 2021

To: Ordinances, Rules and Standards Committee

Via: Jay Boodheshwar, Deputy Town Manager

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

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

Date: June 16, 2021

STAFF RECOMMENDATION

Staff requests that the ORS Committee consider the matter of creating a maximum height of landscape buffers and the minimum separation distance between newly planted and maintained landscape that is adjacent to neighboring buildings.

GENERAL INFORMATION

As was evidenced in last year's review and discussion of 131 Seaview Avenue, the planting of new landscaping directly next to neighboring buildings can be problematic. The vegetation, including tall hedges, trees and palms, can be the pathway for rodents (primarily rats) and Iguanas to access roofs and eaves. The idea of a maximum landscape height and a minimum separation distance between newly installed planting and neighboring buildings could be reviewed, along with maintenance standards for the newly planted vegetation. The matter was reviewed by the Town Council on October 13, 2020 and was sent to ORS for your study.

Included is a draft ordinance to amend Chapter 66, Natural Resource Protection, Article IV, Vegetation. This code change is supported by PZB staff and was also supported by numerous residents

Attached: Draft Ordinance
Letter from Martha & Steven Jeffrey Greenwald

ORDINANCE NO. ____-2021

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES, CHAPTER 66, NATURAL RESOURCE PROTECTION, ARTICLE IV, VEGETATION, DIVISION 1, GENERALLY, BY AMENDEING SECTION 66-212, PURPOSE AND INTENT; AND AT DIVISION 5, REGULATIONS, SUBDIVISION 1, IN GENERAL, BY ADDING SECTION 66-318, PROHIBITED PLANTINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Be it **ORDAINED** by the Town Council of the Town of Palm Beach, Palm Beach County, Florida, as follows:

Section 1. Chapter 66, Natural Resource Protection, Article IV, Vegetation, Division 1, Generally, is hereby amended by adding to Section 66-212, Purpose and Intent, Item (16), to read as:

“Sec. 66-212 (16) Reduce the likelihood of iguanas and rodents from gaining access onto roofs and into buildings.”

Section 2. Chapter 66, Natural Resource Protection, Article IV, Vegetation, Division 5, Regulations, Subdivision 1, In General, is hereby amended by adding Section 66-318, to read as:

“Sec. 66-318 - Prohibited Plantings.

Tall, growing vegetation shall not be planted near or under a neighboring roof, soffit, building, or other such structure. New plant material shall be planted so that no portion of the plant(s) are within twelve (12) feet of a neighboring building or portion thereof. Such plantings shall be maintained, once installed, to provide at least twelve (12) foot of clearance from any neighboring building or portion thereof.”

Section 3. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 4. Repeal of Ordinances in Conflict. All other ordinances of the Town of Palm Beach, Florida, or parts thereof, which conflict with this or any part of this Ordinance are hereby repealed.

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

Section 6. Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

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

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Julie Araskog, Town Council Member

Edward Cooney, Town Council Member

ATTEST:

Lewis S.W. Crampton, Town Council Member

Queenester Nieves, CMC, Town Clerk

Bobbie Lindsay, Council President Pro Tem

Jay Boodheshwar

From: Steven Jeffrey Greenwald, Esq. <3102724@gmail.com>
Sent: Thursday, August 5, 2021 11:06 AM
To: Jay Boodheshwar; Wayne Bergman; Kelly Churney
Subject: Rules Committee meeting August 9, 2021; on Vegetation height just at a neighbor's structure (revised)

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

To **Jay Boodheshwar, Wayne Bergman, Kelly Churney:** please forward a copy of this email to all of those on the Rules committee, as I only have your emails. This **revised** email concerns the **August 9, 2021** (Monday at 9:30 am) hearing on the *proposed Code for vegetation at neighbor's adjacent buildings and soffits*. It is a bit **revised** since the letter I wrote in June 2021. Thank you.

To: Rules, Standards Committee, Town of Palm Beach.

**A simple little Code addition, as to plants
and trees at neighbor's adjacent buildings or soffits**

Thank you for taking the time at Town code reform to consider the idea of really a very simple code add. A simple code add, or part of it could include something (roughly) like this:

"For trees, plants and any vegetation (usually hedges) at or near a neighbor's adjacent building, if the neighbor so requests, such trees or plants of any kind, shall be kept cut 6 feet below the neighbors' roof soffits, and 6 feet away from any neighbor's building of any kind."

With such a simple code, neighbors would quickly get used to what really just codifies **good neighborliness**, and what neighbors should do in situations. The worst thing that would happen is the hedge owner's landscapers will cut away a bit more. Not a big deal. I recently priced out cutting 3 feet off our large hedge, and 30 feet across. The amount of the quote was a mere \$200. It is inexpensive to keep hedges and plants away from a neighbor's soffits. Folks will easily adjust to what is only common courtesy.

Giant trees and plants will still be allowed all over the greatest percent of property, no problem. But just not right at an adjoining neighbor's soffits or building. Thus it also would not make sense for tall trees to be planted at or under an adjacent neighbor's soffits, if the neighbor could request they be cut away at any later date.

With this, perhaps the part of the proposed code that deals with planning (the 12 foot distance of planting, etc.), a controversial part of the proposed code, may not be necessary.

Planners will know in advance that placing a palm tree that will eventually droop over the neighbors roof or grow close to their soffits, providing a direct route for iguanas, is not a good idea. As a tree(s) would get too large, the adjoining neighbor could end up requesting it be eliminated (for example,

palm trees cannot be "top cut" like hedges). But perhaps the "planning" part of the proposed Code can be worked in, and may also be helpful.

Some may not mind a neighbor's giant trees or hedges just at their soffits and buildings. But most do mind it. Because there are significant problems caused by this.

We must face the fact that there are **changes** in our island. For example, there were no iguanas on our island in the 1960's, 1970's or 1980's. *We also never had a required whitefly treatment rule, etc.* Things change.

This Council, Mayor, Staff, Manager and Police have done their best meeting recent changes needed, which were *far more difficult* than this simple proposed tree code, such as the **whitefly code**. The changes were not comfortable, and required a bit of debate. But it all works out, and people will also get used to this kind of simple tree code just fine.

Some examples of why we need this simple little code add

These **two photos (below)** are from **Lily Rovin's** home at 140 Seaspray. The mass of tall growing trees are just at her official landmarked building's soffits. They are a towering mass causing risk to Lily's officially **State Landmarked historic** building.

Lily told us she pleaded with everyone to not have these tall growing trees so close to her building structure, and she still continues to. Lily expressed concerns about hurricanes, **iguanas**, rodents, termites, and **perpetual dampness** that would lead to rot of her official **Landmarked** building. Lily

made all the correct points thoughtfully. She was a good advocate for herself. But all ignored her,



and they continue to ignore her, she said.

Her neighbors who own the plants and trees are very fine people. We actually know them and socialize with them far more than we do Lily.

So why do these neighbors ignore Lily's situation? The reason is: there are absolutely no Town rules on this.

The original landscape plan revealed no concern about Lily's adjacent property being affected. And the feeling is also generally, that this is *Palm Beach*. So anything goes with hedges and plants! The more the merrier. As a result of no code, anything seems OK, even if the plants are destroying the adjacent neighbor's historic property.

This **photo** (above) of Lily's building shows what is all over this island: historic structures built at their lot lines 90 or 100 years ago, now engulfed with neighbors' massive vegetation. The **below photo** (of 140 Seaspray) shows how a neighbor's mass of vegetation planted only 3 years ago can engulf a home built at a lot line. Should the owner of the plants then ask: Why not just **demolish** the **historic home**, as *it should not have been built at its lot line in 1924 in the first place!* Amazing argument? That was actually what our new neighbor implied in her argument at a hearing concerning our 1924 home affected by their hedges.

What could easily prevent these issues, and take less time from staff, council, police, neighbors,



lawyers?

Answer: A **simple Town code** providing easy **guidance** to neighbors, gardeners and their landscape planners. The code would simply explain there can be *no plants, trees or other vegetation, within 6 feet of a neighbor's building or soffits*. Unless the neighbor OK's it, of course, and perhaps that OK should be in **writing** so there is no mistake.

Our Town could enact easy clear guidance by this simple code that would actually make it so Town staff, police, and Council rarely spend time on boundary issues.

Council may not be involved in boundary issues as much, but the police and staff sure are. When I first proposed this idea months ago, I received a phone call from Town Police management out of nowhere, strongly supporting the idea. Other town staff and management also supported the simple idea, as they live with the problem. Boundary issues are usually about trees and vegetation affecting neighbors' buildings (I can send links to the articles if anyone wants).

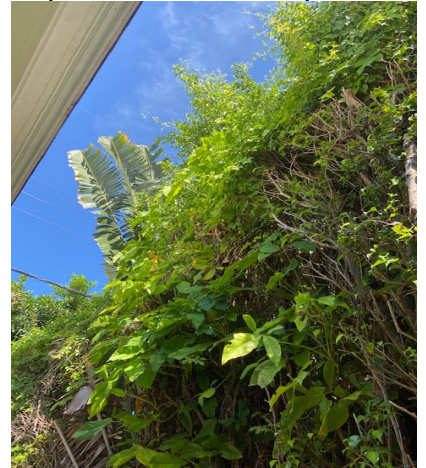
Now with the iguana explosion, we have an added reason for this simple code. Under "*Reason for code*" which is always stated with the published code, it can be simply: "*To keep iguanas off of roofs.*" Iguanas are not the end of the world (though it may seem so, as experts warn of far more iguanas to come). Iguanas are no fun, but we can live with them. Where we cannot live with them is if iguanas are on **roofs**, especially if we aid them onto a neighbor's roof because of the trees we plant.

Experts warn in article after article, **we must keep iguanas off of roofs**, as feces mixed with rainwater that falls on us, is very hazardous. See Town of Palm Beach warning "*Green iguanas can transmit infectious bacterium Salmonella to humans through contact with water or surfaces contaminated by their feces*" Link: <https://www.townofpalmbeach.com/909/What-is-a-Green-Iguana>

The guidance of a simple Town Code will show citizens, landscape planners, simple rules that **will become routine**, and will affect only a **small portion** of the hedge owner's lot. *Everyone will know what to do.* Landscapers architects can easily show their creativity in this situation.

It's a simple solution to big risks to historic buildings on this island that will get far worse. With climate change, stronger hurricanes, greater iguana explosion, Lily was right to be concerned about those huge trees just at her building.

At **333 Seaspray** (photo below) the **Peppers'** complaint is also about severe hedge encroachment from the lot line to their structure. They explain that their rear neighbor's property hedge is installed just at their lot line, and is causing big problems. The Peppers validly complained in their Sept 29,



2020 letter to the Town: *"we don't want ficus growing in our windows."*

The Peppers made the key point in their letter to Town staff: *"This is a common situation in older neighborhoods" ... "with new, larger houses being built on sites of smaller, older housing, the placement of landscape material needs to be addressed in order to prevent encroaching on and crowding neighboring properties."*

There are others with awful situations like these, including **Dorothy Martin (312 Seabreeze)** but no space to tell all their stories. There were 17 Palm Beach homeowners who did write to support this town Code vegetation add. We can provide the Town with phone numbers and photos if desired. There are very few who know of today's hearing. If more knew of this Code hearing, no doubt there would be many more letters to the Town in support.



Our own situation was one of iguanas climbing up the neighbor's tall hedges that were high enough to help them get onto our roof, leave feces there, and perhaps **get into our attic**. **Photo (above)** is of the **daily feces, fallen from our roof**, that we suffered with for years. In 2019, while we were gone for a month, we returned to find **40 square feet of iguana feces** all over our roof. It took a man an entire day using detergent to get it off. Slippery detergent is dangerous when walking on roofs.

Experts say, if iguanas can get near a roof, they will get on it. Florida cities, towns, strongly advise keeping any iguana useful trees far away from structures, to keep iguanas off of roofs.

From this **Town's own website**. The TOWN OF PALM BEACH warns of this known serious health hazard: "*Green iguanas can transmit infectious bacterium Salmonella to humans through contact with water or surfaces **contaminated by their feces***". Town link:

<https://www.townofpalmbeach.com/909/What-is-a-Green-Iguana>

Iguana feces mixed with rainwater is a known hazard, falling from a roof, falling on driveway, onto walking areas. Iguana feces on our roof is a hazard to my wife and I, and any guests. There are many such articles. Link: [Green iguana is a reservoir of diarrheogenic Escherichia coli pathotypes](#) Pathotypes that are **resistant to most known antibiotics**.

Photo (below) gardener cutting the **tops** (height) of a neighbor's **hedges**, something that **in the absence of a simple proposed code, he is not really supposed to do!** Yes, in absence of a simple Town code, there is really nothing the adjacent landowner can do, he cannot cut the **tops** or

height of a neighbor's hedge (other states do allow, in the absence of town codes, the self-help



remedy of cutting tops of neighbors' hedges).

That is another reason why, in the absence of the town code, this is a real problem. My former neighbor for 23 years forbade me from cutting the tops of his hedges. When he died and nobody occupied the house, we finally cut his hedges, and the iguana feces on our roof, for the first time in years, finally stopped.

A simple town code to guide neighbors, will stop this problem that is getting worse, and help neighbors live together peacefully.

Thank you, respectfully your neighbors,

Steve and Martha Greenwald

LINKS BELOW are some of many medical journal links. Iguana feces are a severe danger:

From the publication: "*Clinical Orthopaedics and Related Research*." The authors present a case of a **7-month-old girl** who contracted **Salmonella osteomyelitis** of her proximal humerus with septic arthritis of the glenohumeral joint secondary to **iguana exposure**. See link:

https://journals.lww.com/clinorthop/Fulltext/2000/03000/Salmonella_Osteomyelitis_Secondary_to_Iguana.27.aspx

Feces are not the only risk. See article: *On the extreme severity of Iguana bites*. American Board of Family Medicine Journal See the link and **photo**:

<https://www.jabfm.org/content/jabfp/14/2/152>. Bites or exposure to feces can create severe health risks for those who are bitten by or exposed to the feces of Iguanas. **Photo of severe serratia marcescens cellulitis following an iguana bite to the face.**

Journal of the American Veterinary Medical Association Study link: [Prevalence of fecal shedding of Salmonella organisms among captive green iguanas and potential public health implications.](#)

*Green Iguana Carry Diarrheagenic **Escherichia coli** Pathotypes*, published in Frontiers in Veterinary Science, 26 February 2020 See link:

<https://www.frontiersin.org/articles/10.3389/fvets.2020.00099/full>

Journal of Preventive Veterinary Medicine: Explores dangers of salmonella in green iguanas and the environment: <https://www.sciencedirect.com/science/article/pii/S0167587700001240>

[Antimicrobial resistance patterns of commensal Escherichia](https://www.veterinaryworld.org)

www.veterinaryworld.org December-2019 Link to medical journal article, explains severe dangers of **antimicrobial resistance** generally in **commensal Escherichia coli**. Escherichia antibiotic resistance genes in animals and its **risk to humans**.

[Antibiotic resistant Escherichia coli in green iguanas](#) **Salmonella Marina infection in children: A Reflection of the Increasing Incidence**. From RESEARCHGATE (2014)

Link: [Animal sources of salmonellosis in humans](#) Journal of the American Veterinary Med Assoc

<https://aricjournal.biomedcentral.com/articles/10.1186/s13756-020-0691-3>

Article: **Salmonella escherichia coli antimicrobial resistance is a very serious public health problem**. Fecal carriage of drug-resistant bacteria has been suggested as a dangerous source of antimicrobial resistant genes. Journal of Antimicrobial Resistance, BMC volume 9, Article number: 31 (2020).

There is quite a bit of law that would allow the Town to have the new Code add, including Florida's nuisance general definition, and see also Florida Statute 386.01 on sanitary nuisance:

Prior v. White, 132 Fla. 1, 180 So. 347 (1938) the **Florida Supreme Court:** a common law nuisance is *anything that "either annoys, injures, or endangers the comfort, **health, repose or safety** of the citizen, or which unlawfully interferes with ... or in any way renders unsafe and **unsecure** other persons in life or in the use of their property."*

Steven Jeffrey Greenwald, Esq.

Email address:

3102724@gmail.com

U.S.A. Telephone & voicemail:

561-310-2724

Mailing address: P.O. Box 3407

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

Wayne Bergman

From: Silvia hirschmann <sbhfl@mac.com>
Sent: Monday, October 12, 2020 2:02 AM
To: Town Council; Wayne Bergman; Kirk Blouin; Paul Castro
Subject: Consideration of code reform Re landscape placement

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

Dear Council, Mayor and Town Staff,

I heard from a friend that other property owners share my concerns about plantings along property lines.

The picture below shows my property on the right side of the green wall (it looks like a post) that belongs to my neighbors. Last fall a large hedge was planted right against this wall on my neighbor's property. From the beginning there was no allowance for growth or maintenance. In the meantime the hedge hangs way into my property. In order to cut the plants back to the property line they would have to be drastically trimmed causing some gaps in the hedge. I feel that I do not have the right to cause such damage to my neighbors property. In addition I also do not feel responsible for the maintenance of my neighbors landscaping choices.

I talked to the supervisor of my neighbor's landscaping service but so far the issue was not addressed. My new neighbors have not occupied the property yet therefore I had not the opportunity to take up the issue with them personally.

I respectfully ask for consideration of an ordinance regulating the placement of plant material, especially hedges, as well as size restrictions of such plantings for smaller properties in mid-town as well as the North-End.

I thank you for your time.

Silvia Hirschmann
423 Chilean Ave

To Rules Committee and Town Council:

We need a Town rule that requires a written OK before one plants tall growing tree(s) or vegetation very near a neighbor's home or building structure. If the tree(s)/vegetation is there now, and are close, the rule should also require the owner to cut the tree(s) or vegetation well away from the neighbor's roof soffits, so iguanas will not get on the neighbor's roof. Thank you.

Bradford Winston and Sandra Powers

Handwritten signatures of Bradford Winston and Sandra Powers in blue ink. Below the signatures is the date "9/16/2020" also written in blue ink.

Address: 419 Seaspray Avenue, PB

Thank you, in advance, for your consideration of the above.

To Rules Committee and Town Council:

We need a Town rule that requires a written OK before one plants tall growing tree(s) or vegetation very near a neighbor's home or building structure. If the tree(s)/vegetation is there now, and are close, the rule should also require the owner to cut the tree(s) or vegetation well away from the neighbor's roof soffits, so iguanas will not get on the neighbor's roof. Thank you.

Mr/Mrs

Joan de Brie

Address

164 Sea
spray

Wayne Bergman

From: Steven Jeffrey Greenwald, Esq. <3102724@gmail.com>
Sent: Monday, September 14, 2020 3:12 PM
To: Wayne Bergman
Subject: Neighbors would like the new Code rule See letters

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

Dear Wayne: I earlier just sent an email to you on the meeting date and time.

This email has to do with feeler I put out to some neighbors on their thoughts of a new town code like the one you are working on. 100% favorable, and a quick response. One fellow told me he always has a fear that he will return back after summer and find newly planted tree hedges right at his building. I would have liked to do a petition, but folks are afraid of Covid and many are out of town still. So I opted for a sort of form letter they send me. STEVE

Eric Leiner
to me

Sun, Sep 13, 4:16 PM (22 hours ago)

Hi Steve,

That is a terrible problem you had with those tall trees, iguana waste, and a difficult neighbor. I can definitely see the need for a simple rule like this.

Eric Leiner

159 Seaspray Ave

To Rules Committee and Town Council:

We need a Town rule that requires a written OK before one plants tall growing tree(s) or vegetation very near a neighbor's home or building structure. If the tree(s)/vegetation is there now, and are close, the rule should also require the owner to cut the tree(s) or vegetation well away from the neighbor's roof soffits, so iguanas will not get on the neighbor's roof. Thank you.

Eric Leiner

159 Seaspray Ave

To Rules Committee and Town Council:

We need a Town rule that requires a written OK before one plants tall growing tree(s) or vegetation very near a neighbor's home or building structure. If the tree(s)/vegetation is there now, and are close, the rule should also require the owner to cut the tree(s) or vegetation well away from the neighbor's roof soffits, so iguanas will not get on the neighbor's roof. Thank you.

Mr Jay Serzan

Address 353 Seabreeze Avenue

Bradford Winston

Sun, Sep 13, 3:27 PM (22 hours ago)

to me

I will certainly support this request tonight when I get to my computer.

Bradford Winston
419 Seaspray Ave.

Janeylvisaker

10:52 AM (3 hours ago)

to me

Well done Steve... I would also add that neighbours should not allow their hedges & other vegetation to block out their neighbour's light. This happens to me on 2 sides.

I have attempted to copy & paste your letter back but my iPad isn't responding.

Jane Ylvisaker

346 Seabreeze Avenue, Palm Beach, FL 33480

UK 44.207.727.1589 home

Dorothy Martin

11:36 AM (3 hours ago)

Thank you for your email, I agree 100%. please keep me posted.

Dorothy Martin

312 Seabreeze Ave, Palm Beach

Carol LeCates

2:39 PM (0 minutes ago)

to me

Hi Steve,

I've been following your saga. What a nightmare! I will have a look at the draft language and write to Council.

Best to you and Martha,
Carol

Wayne Bergman

From: Steven Jeffrey Greenwald, Esq. <3102724@gmail.com>
Sent: Monday, September 21, 2020 5:50 PM
To: Wayne Bergman
Subject: Another owner in favor proposed tall grow vegetation iguana rule

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

Wayne: Thanx so much for the time you are taking out of your busy schedule. Really great of you. I could see your new very important position keeps you **super** busy.

Below in this email is another neighbor in favor of the proposed tall vegetation iguana rule, **Polly Wulsin**. A nice number of owners so far in favor, some strongly in favor. I'm sure I can get a lot more signatures as people return to Palm Beach. I have tried to knock on doors, but many are still out of town.

Not simple to get petitions signed during Covid too, so these little letters are a substitute for a petition.

Note: the idea of the **first** part of a rule is it is **only** applicable **if** the neighbor objects to planned tall hedges next to the neighbor's building, of course.

And the **second** part, for tall vegetation already there, Polly Wulsin's little note did not mention that cutting away from soffits would be needed **only** if requested by the neighbor. So most of the time nothing would change. The worst thing that could happen is for a few hundred dollars, the hedge owner would tell his gardener to cut the hedges a bit lower. No biggie really, this proposed code.

Kind regards, Steve and Martha

Polly's letter she sent me:

To Rules Committee and Town Council:

We need a Town rule that requires a written OK before one plants tall growing tree(s) or vegetation very near a neighbor's home or building structure. If the tree(s) vegetation is there now, and are close, the rule should also require the owner to cut the tree(s) or vegetation well away from the neighbor's roof soffits, so iguanas will not get on the neighbor's roof. Thank you.

Polly Wulsin
 425 Seabreeze Ave.

--

Steven Jeffrey Greenwald, Esq.

Email address:

3102724@gmail.com

Wayne Bergman

From: Steven Jeffrey Greenwald, Esq. <3102724@gmail.com>
Sent: Wednesday, September 23, 2020 6:14 PM
To: Jay Boodheshwar; Wayne Bergman
Subject: 2 more good letters in favor of the town code add
Attachments: Letter from David (Lily Rovin) re Code add vegetation iguanas.pdf

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

Jay and Wayne:

Thanx so much for all of your hard work on the proposed code add. Do either of you know exactly when the Code hearing is on this proposed vegetation/iguana rule, ie., what day time and place? I know of a number of citizens who want to attend and speak.

Below and attached are two more letters in favor of the town code add on tall vegetation and iguanas. One written by Dr and Mrs Richard Goldberg of Seabreeze, below.

The other was written by David Katzman, Esq., nephew and attorney for **Lily Rovin**. If you recall, Lily Rovin lives next to the home on Seaspray that was landscaped last year by Mr Williams Group. I had sent photos of the outrageous tall huge trees and plants engulfing Lily's structure. Mrs Rovin is very upset about the iguanas on her roof too, and other iguana problems, large amounts of feces, etc. What I saw next door to Lily was way too much huge vegetation, hence the iguanas. You may want to have a look at that. Read Attorney Katzman's letter attached in the PDF.

I also had a talk with a Dorothy Martin from Seabreeze Ave, same subject. She is very concerned about how landscape planners are overdoing what is near neighbors' structures. She strongly urges planning and zoning to not allow this to happen any longer. She complains her neighbors' new hedges are way too huge and close to her structure. You may want to interview her. She is pretty smart and has much to say about this. She is a 50 year resident of PB.

Mrs Martin's phone is **561-801-5539**. Although she likes the little proposed code add, she wants to write her own letter explaining the automatic approving of overdone landscaping by planners near neighbors' structures, is causing citizens of Palm Beach major problems, including iguanas, and most of all constant **severe dampness**. Thus damages in neighbors structures that are engulfed by their landscape planners' overdoing things. She has 5 or more other neighbors that will also be in touch. Pretty upset lady.

Either way, a little rule that an owner of tall plants may have to spend a couple hundred bucks to cut say tall hedges down from their neighbor's roof soffits, **is not a biggie**. It just codifies neighborliness.

I will shortly be sending more letters.

Thanx again and kind regards, Steve and Martha Greenwald

LETTER FROM MR and MRS GOLDBERG:

To Rules Committee and Town Council:

We need a Town rule that requires a written OK before one plants tall growing tree(s) or vegetation very near a neighbor's home or building structure. If the tree(s)/vegetation is there now, and close, the rule should also require the owner to cut the tree(s) or vegetation well away from the neighbor's roof soffits, if the neighbor requests, so iguanas will not get on the neighbor's roof. Thank you.

**Dr. and Mrs Richard I Goldberg
358 Seabreeze Ave, PB**

Mailing address: P.O. Box 3407
Palm Beach, Florida 33480 - U.S.A.

Steven Jeffrey Greenwald, Esq.

Email address:

3102724@gmail.com

U.S.A. Telephone & voicemail:

561-310-2724

Mailing address: P.O. Box 3407
Palm Beach, Florida 33480 - U.S.A.

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WAYNE, PENNSYLVANIA 19087
(610) 686-9686 • FAX (610) 686-9687

RICHARD F. SCHADEN, OF COUNSEL

September 14, 2020

Via U.S. Mail

Members of Town Counsel and
Gail L. Coniglio, Mayor
360 South County Road
P.O. Box 2029
Palm Beach, FL 33480
Phone: 561-838-5400

Re: 140 Seaspray, Palm Beach, FL

Dear Members of the Town Counsel and Mayor of Palm Beach:

I write on behalf of my aunt, Lily Rovin, who has for decades been a resident of Palm Beach. Although elderly, Mrs. Rovin possesses amazing soundness of mind and body. She remains active, alert, and in full possession of all her faculties. I digress only momentarily to tell you one of my favorite facts about my aunt: As a teenager my Aunt Lily lived through the Nazi bombing of London, the blitz. Consequently, it would be foolish for anyone to underestimate her tenacity.

Mrs. Rovin is fastidious in keeping her property groomed and presentable. She is a proud resident of Palm Beach, and she ardently believes in maintaining high community standards.

Unfortunately, there have lately been some problems involving recently installed landscaping on several properties using tall growth trees, precipitating an invasion of iguanas and large rodents onto her property. Recently, Mrs. Rovin was compelled to have her car repaired because rodents chewed through wiring that runs along the underside of her vehicle. The car is maintained in the porte-cochere attached to her house. The expense of the repairs is not of concern. Apparently, the newly installed landscaping has also attracted iguanas and permitted them to access a flat portion of her roof, upon which they sun and defecate; and, the iguanas have invaded her backyard swimming pool, into which they defecate. These conditions create at best a nuisance and of far more concern, they create a genuine and potentially serious health hazard.

Mrs. Rovin desires only to be a good neighbor. She believes that the concern for public health eclipses the singular matter here described and should be addressed in a broader context.

There are apparently several potential solutions, ranging from limiting the placement and height of tall growth trees to requiring that tall growth trees and other tall-growth vegetation be trimmed to at least a distance of six feet from the roofline of nearby and adjacent structures.

LAW OFFICES
KATZMAN, LAMPERT & STOLL
PROFESSIONAL LIMITED LIABILITY COMPANY

September 14, 2020

Page 2 of 2

Mrs. Rovin respectfully requests that the issues and concerns expressed in this letter be addressed in the interests of public health and safety and consistent with traditional community standards.

Very truly yours,

A handwritten signature in blue ink, appearing to read "D. Katzman", with a large circular flourish on the left and a horizontal line extending to the right.

David I. Katzman, Esq.

cc: Lily Rovin

Wayne Bergman

From: Anne Pepper <annepepper@mac.com>
Sent: Tuesday, September 29, 2020 3:36 PM
To: Town Council; Wayne Bergman; Kirk Blouin; Paul Castro
Subject: Consideration of code reform Re landscape placement

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

Dear Council, Mayor and Town Staff,

Below are pictures of neighbor's landscaping next to our property at 333 Seaspray. Our back property line(north)abuts 2 recently built houses on Seabreeze. The first photo shows the NE corner and one of the new Seabreeze house's hedge growing into our east side neighbor. The second photo shows our north side. The Seabreeze property's hedge is installed right to the lot line . As you can see there is no room for their landscaper to maintain the size of the hedge that grows southward into the easement and toward our house. Consequently, if we don't want ficus growing in our windows, our landscaper has to maintain their planting.

The third photo shows our East side neighbor where the hedge is also placed on property line. To maintain access to our narrow drive, we must have our side clipped although the hedge is theirs. This is a common situation in older neighborhoods which are seeing a lot

Of demolitions and new construction . With so many new, larger houses being built on sites of smaller, older housing , the placement of landscape material needs to be addressed in order to prevent encroaching on and crowding neighboring properties.

To determine how high plant material should be and how far from side and back lot Lines it can be planted so the owners can maintain all sides of hedges and trees needs to be determined in order to amend the code. This would be the purview of ORS.

We respectfully ask that an ordinance regarding size, height, spacing and distance from side and back neighboring lot lines of plant materials be considered.

Anne and Charlie Pepper
 333 Seaspray Ave.

Wayne Bergman

From: Steven Jeffrey Greenwald, Esq. <3102724@gmail.com>
Sent: Tuesday, September 29, 2020 6:40 PM
To: Jay Boodheshwar; Wayne Bergman
Subject: Two more letters in favor of vegetation iguana rule
Attachments: The Odonnell's Letter in favor of Vegetation iguana rule.pdf

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

Wayne and Jay:

Two more letters in favor of the vegetation Iguana rule.

Peter and Sara O'Donnell, 235 Seaspray Ave sent the attached PDF (it is upside down in the PDF but very readable).

Also **Anne and Charlie Pepper** (333 Seaspray). I think Wayne got a copy of the Peppers' letter earlier. Sending in just in case (see below).

Regards, Steve

Anne Pepper

3:35 PM (2 hours ago)

to council, Wayne, kblouin, pcastro

Dear Council, Mayor and Town Staff,

Below are pictures of neighbor's landscaping next to our property at 333 Seaspray. Our back property line(north)abuts 2 recently built houses on Seabreeze. The first photo shows the NE corner and one of the new Seabreeze house's hedge growing into our east side neighbor. The second photo shows our north side. The Seabreeze property's hedge is installed right to the lot line . As you can see there is no room for their landscaper to maintain the size of the hedge that grows southward into the easement and toward our house. Consequently, if we don't want ficus growing in our windows, our landscaper has to maintain their planting.

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To determine how high plant material should be and how far from side and back lot Lines it can be planted so the owners can maintain all sides of hedges and trees needs to be determined in order to amend the code. This would be the purview of ORS.

We respectfully ask that an ordinance regarding size, height, spacing and distance from side and back neighboring lot lines of plant materials be considered.

Anne and Charlie Pepper
 333 Seaspray Ave.

**Peter J. and Sarah Y. O'Donnell
235 Seaspray Ave
Palm Beach, FL 33480**

28 September 2020

Dear Sirs:

Attn.: Code Review and Council

We need a Town rule that requires a written OK before one plants tall growing tree(s) or vegetation very near a neighbor's home or building structure. If the tree(s)/vegetation is there now, and close, the rule should also require the owner to cut the tree(s) or vegetation well away from the neighbor's roof soffits, if the neighbor requests, so iguanas will not get on the neighbor's roof (and other reasons).

This will not only alleviate a serious issue for owners but also maintain neighborly relations.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to be 'Peter J. O'Donnell', written in a cursive style.

Wayne Bergman

From: Steven Jeffrey Greenwald, Esq. <3102724@gmail.com>
Sent: Wednesday, September 23, 2020 6:14 PM
To: Jay Boodheshwar; Wayne Bergman
Subject: 2 more good letters in favor of the town code add
Attachments: Letter from David (Lily Rovin) re Code add vegetation iguanas.pdf

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Jay and Wayne:

Thanx so much for all of your hard work on the proposed code add. Do either of you know exactly when the Code hearing is on this proposed vegetation/iguana rule, ie., what day time and place? I know of a number of citizens who want to attend and speak.

Below and attached are two more letters in favor of the town code add on tall vegetation and iguanas. One written by Dr and Mrs Richard Goldberg of Seabreeze, below.

The other was written by David Katzman, Esq., nephew and attorney for **Lily Rovin**. If you recall, Lily Rovin lives next to the home on Seaspray that was landscaped last year by Mr Williams Group. I had sent photos of the outrageous tall huge trees and plants engulfing Lily's structure. Mrs Rovin is very upset about the iguanas on her roof too, and other iguana problems, large amounts of feces, etc. What I saw next door to Lily was way too much huge vegetation, hence the iguanas. You may want to have a look at that. Read Attorney Katzman's letter attached in the PDF.

I also had a talk with a Dorothy Martin from Seabreeze Ave, same subject. She is very concerned about how landscape planners are overdoing what is near neighbors' structures. She strongly urges planning and zoning to not allow this to happen any longer. She complains her neighbors' new hedges are way too huge and close to her structure. You may want to interview her. She is pretty smart and has much to say about this. She is a 50 year resident of PB.

Mrs Martin's phone is **561-801-5539**. Although she likes the little proposed code add, she wants to write her own letter explaining the automatic approving of overdone landscaping by planners near neighbors' structures, is causing citizens of Palm Beach major problems, including iguanas, and most of all constant **severe dampness**. Thus damages in neighbors structures that are engulfed by their landscape planners' overdoing things. She has 5 or more other neighbors that will also be in touch. Pretty upset lady.

Either way, a little rule that an owner of tall plants may have to spend a couple hundred bucks to cut say tall hedges down from their neighbor's roof soffits, **is not a biggie**. It just codifies neighborliness.

I will shortly be sending more letters.

Thanx again and kind regards, Steve and Martha Greenwald

LETTER FROM MR and MRS GOLDBERG:

To Rules Committee and Town Council:

We need a Town rule that requires a written OK before one plants tall growing tree(s) or vegetation very near a neighbor's home or building structure. If the tree(s)/vegetation is there now, and close, the rule should also require the owner to cut the tree(s) or vegetation well away from the neighbor's roof soffits, if the neighbor requests, so iguanas will not get on the neighbor's roof. Thank you.

**Dr. and Mrs Richard I Goldberg
358 Seabreeze Ave, PB**

Mailing address: P.O. Box 3407
Palm Beach, Florida 33480 - U.S.A.

Steven Jeffrey Greenwald, Esq.

Email address:

3102724@gmail.com

U.S.A. Telephone & voicemail:

561-310-2724

Mailing address: P.O. Box 3407
Palm Beach, Florida 33480 - U.S.A.

Wayne Bergman

From: Steven Jeffrey Greenwald, Esq. <3102724@gmail.com>
Sent: Tuesday, October 06, 2020 11:36 AM
To: Wayne Bergman; Jay Serzan
Subject: Another letter in favor of Vegetation rule

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

Wayne and Jay: Another letter from **Dorothy Martin, 312 Seabreeze** in favor of a **vegetation rule**, with an added twist.

I see what Dorothy is getting at. The need to not plant hedge trees just at the lot line, if near an adjacent neighbor's structure, as she implies *there is no space to keep them under control*. She says the "space" should be required so the owner planter can deal with the big problems they cause.

Also **height** restrictions she believes are needed where near a lot line structure.

Also *adjacent property plants are so close to her structure* the pest control ends up spraying all over her structure! She mentioned these things in my discussion with her.

Dorothy's concerns are really the same as ours and others, per my discussion with her. The real cause is planners planting too big of trees too near a neighbors lot line structure. Below is Dorothy's letter. Kind regards, Steve

----- Forwarded message -----

From: **Dorothy Martin** <dmartin2543@gmail.com>
Date: Tue, Oct 6, 2020 at 10:06 AM
Subject: Landscape Guidelines
To: Steven Jeffrey Greenwald, Esq. <3102724@gmail.com> <3102724@gmail.com>

Town of Palm Beach,

1. We request that any plantings should allow space from property lines for trimming and maintenance on the property of the owners who chose to do the planting.
2. There should be height height restrictions so that neighbors do not have overhang on their property or light restrictions.
3. Pest control should not be airborne based as they invade the neighbors air space.

Sincerely,
 Mrs. Dorothy Martin

--

Wayne Bergman

From: Steven Jeffrey Greenwald, Esq. <3102724@gmail.com>
Sent: Thursday, October 22, 2020 11:55 AM
To: Wayne Bergman; Jay Boodheshwar
Subject: Another letter in favor of Vegetation Rule

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

Jane Ylvisaker

8:08 AM (3 hours ago)

to me

Wayne and Jay: Below another letter, this one from **Jane Ylvisaker 346 Seabreeze** (reprinted below) in favor of the simple vegetation rule. People keep contacting me about it who are very interested. More letters are expected.

Any idea when the **ORS** originally scheduled (Nov 5th) Rules committee meeting on this rule issue will be **rescheduled to**? Let me know. Thanx.

By the way the article I wrote to be published in the Florida Bar Journal (and likely other publications) is now in the hands of my co-writers, two scientists/lawyers PhD JD's, currently Florida's foremost experts in urban vegetation and the law. They just published another interesting article in the Nov Dec 2020 Florida Bar Journal, in the link below. And see **Jane's Ylvisaker** letter below that. Kind regards, Steve

<https://www.floridabar.org/the-florida-bar-journal/application-of-the-florida-friendly-landscaping-statute-to-homeowner-disputes-regarding-violation-of-restrictive-covenants/>

To the Rules Committee and Town Council

Dear Sirs

May I submit that we need a Town Ruling that one requires a written permission in order to plant tall growing trees or vegetation close to neighbouring property lines and structures.

If the trees and vegetation are presently in existence and close to the above, then the rule should also require the owner to cut the trees so sunlight is not impeded and vegetation kept well away from neighbouring roof soffits, so that iguanas will be unable to climb onto the roof.

Several instances as described are now in existence so your prompt attention to this matter would be much appreciated by many.

Yours sincerely

Jane Ylvisaker

346 Seabreeze Avenue

Palm Beach

--

Steven Jeffrey Greenwald, Esq.

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: September 2, 2021

To: Ordinances, Rules & Standards Committee

From: Jay Boodheshwar, Deputy Town Manager

Re: Review Chapter 42 of the Town Code, Sec. 42-230 – Lawn Maintenance, Relative to Hours, Equipment and Noise

Date: August 26, 2021

STAFF RECOMMENDATION

Staff recommends that the ORS Committee review the information provided below, relative to potential modifications to Chapter 42, Section 42-230 of the Town Code, and provide direction to staff.

GENERAL INFORMATION

At the July 1, 2021, ORS Committee meeting, members of the committee, staff, and representatives of the construction industry had a robust discussion regarding the merits of modifying Chapter 42, Section 42-199 of the Town Code, relative to construction hours.

At present, construction work is permitted Monday through Friday from 8:00 am to 5:00 pm (quiet work only from 8:00 am – 9:00 am) during the peak season (beginning on the Monday preceding Thanksgiving until April 30) and from 8:00 am to 6:00 pm during the summer season (May 1 until the Saturday preceding Thanksgiving). The Code also permits “quiet” construction work on Saturdays from 9:00 am to 5:00 pm on a year-round basis, but limits the Saturday work during the peak season to interior work only.

After much discussion, the committee advanced the following recommendations to the Town Council for consideration.

1. Require “quiet work” only from 8:00 am – 9:00 am on a year-round basis and not just during the peak season. This recommendation was unanimous.
2. Prohibit arrival to construction sites before 7:30 am and restrict any kind of site activity until 8:00 am on a year-round basis. This recommendation was unanimous.
3. Eliminate Saturday construction hours during the winter peak season and add an extra hour of quiet work at the end of each workday to partially offset the loss of Saturday quiet hours. An additional 9 days would also be added to the duration of the building permit to help offset the loss of Saturdays. Committee members were split on this recommendation.

These recommendations were originally scheduled for discussion at the August 10, 2021, Council meeting, but the item was deferred to the September 14, 2021, meeting.

At the August 10, 2021, Council meeting, ORS was asked to review Chapter 42, Section 42-230 of the Town Code – Lawn Maintenance. It is important that this section be reviewed with due consideration to its cross-reference to Section 42-199, as lawn maintenance is subject to the same construction hours and leaf blowers use restrictions are consistent with heavy equipment use in said section. Attached to this memo is Ordinance No. 03-2018, which is inclusive of the related sections 42-199 and 42-230.

Attachment

cc: Department Directors
John Randolph, Town Attorney

ORDINANCE NO. 03-2018

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 42, ENVIRONMENT, ARTICLE V, NOISE; AMENDING SECTION 42-198, RELATING TO THE OPERATION OF CERTAIN MACHINERY; EXPANDING THE PERIOD OF THE YEAR DURING WHICH THERE IS A PROHIBITION ON THE OPERATION OF SAID MACHINERY; PROVIDING FOR ADDITIONAL PROHIBITIONS; AMENDING SECTION 42-199, HOURS FOR CONSTRUCTION WORK, AT SUBSECTION (b) SO AS TO EXPAND THE LIMITATIONS ON THE MONTHS, DATES AND TIMES DURING WHICH CONSTRUCTION WORK MAY BE UNDERTAKEN; AMENDING SECTION 42-230, LAWN MAINTENANCE EQUIPMENT NOISE, SO AS TO PROVIDE THAT LAWN MAINTENANCE SHALL BE LIMITED TO THE HOURS OUTLINED FOR CONSTRUCTION WORK SET FORTH IN SECTION 42-199; PROVIDING EXCEPTIONS FOR THE OPERATION OF LAWN MAINTENANCE EQUIPMENT BY RESIDENTS, AND FOR GOLF COURSE MAINTENANCE EQUIPMENT; PROVIDING REGULATIONS RELATING TO THE OPERATION OF LEAF BLOWERS, AND PROHIBITING THE COMMENCEMENT OF LARGE SCALE LANDSCAPE INSTALLATION AT ANY TIME ON SATURDAYS; 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 42, Environment, Division V, Noise, Section 42-198 to read as follows:

"Sec. 42-198. Operation of certain machinery during winter, Saturdays, Sundays and legal holidays, including the Friday immediately after Thanksgiving.

- (a) *Prohibited.* During the period of the year commencing on the Monday prior to Thanksgiving of each year no person shall operate or cause to be operated the following machinery or equipment within the town:
- (1) Dredges, whether used in making hydraulic fills, dry fills, piledriving or any other purpose.

- (2) Hammer-driven piledrivers, whether operated from water or land, or from motor truck or tractor, and whether stationary or moveable.
 - (3) Gasoline, diesel and/or steam engines, operated in such a manner as to emit odors or noises offensive or disagreeable to the inhabitants of the town.
 - (4) Dry sandblasting machines and jackhammers.
 - (5) Any other class of machinery or appliance that in its operation would render the enjoyment of property within the town less agreeable than if such appliances or machinery were not operated.
- (b) *Exceptions.*
- (1) It shall be within the discretion of the town council when, in its opinion, the operation of any of the prohibited machinery or appliances mentioned in subsection (a) of this section shall not be overly offensive to the residents or inhabitants of the town, in the vicinity of the equipment's operation, to grant an exception to this section.
 - (2) The operation of equipment relating to essential services of the town and equipment operation during emergency conditions shall be exempt from subsection (a) of this section."

Section 2. Chapter 42, Article V, of the Town's Code of Ordinances is hereby amended at Section 42-199 to read as follows:

"Sec. 42-199. - Hours for construction work.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Construction work means work of a physical nature requiring a permit in accordance with the provisions of this Code and/or violates the conditions of section 42-198 and/or violates the conditions of this section, and/or causes excessive noise as defined by section 42-228.
- (b) *Limited.* Beginning on the Monday preceding Thanksgiving, and during the months of December, January, February, March, and April of each year, construction work not otherwise prohibited by Section 42-198 or other work resulting in noise tending to disturb the people in the vicinity thereof shall not begin until the hour of

8:00 a.m., and shall cease at the hour of 5:00 p.m., except Saturday, Sunday, and legal holidays, when all construction work is prohibited. In no event shall heavy equipment or other construction-related noise be permitted before 9:00 a.m. At all other times such work may commence at 8:00 a.m. and cease at the hour of 6:00 p.m., except Saturdays, Sundays and legal holidays, including the Friday immediately after Thanksgiving, when all construction work is restricted or prohibited. Construction work is permissible on Saturdays from May through the Monday preceding Thanksgiving, but subject to the following restrictions: work shall not begin until the hour of 9:00 a.m. and shall cease at the hour of 5:00 p.m.; all work must be quiet in nature during which all of the noise and machinery prohibitions identified in Section 42-198 are applicable; material deliveries are prohibited in all cases unless the Building Official waives such restriction due to compelling circumstances; concrete pours and concrete sawing is prohibited unless the Building Official waives such restriction due to compelling circumstances; and the razing of buildings is prohibited, with the exception of non-mechanized debris clean-up. The permitted hours for construction work in the C-WA zoning district shall be from 8:00 a.m. until 8:00 p.m. during the months commencing May 1 and ending on October 31, except Sundays and legal holidays, when all construction work is prohibited.

(c) *Exceptions.*

- (1) It shall be within the discretion of the town council when in its opinion the operation of any of the prohibited machinery or appliances mentioned in subsection 42-198(a) shall not be overly offensive to the residents or inhabitants of the town in the vicinity of the equipment's operation to grant an exception to this section.
- (2) The operation of equipment relating to essential services of the town and equipment operating during emergency conditions shall be exempted from subsection (a).
- (3) At the discretion of the director of planning, zoning and building, or his representative, emergency work for nontown related essential services may be authorized at any time during the year.
- (4) Interior work not resulting in noise tending to disturb people in the vicinity thereof, shall be allowed during the hours of 9:00 a.m. and 5:00 p.m. on Saturdays during the period commencing on the Monday preceding Thanksgiving and ending on April 30.
- (5) The town council, in its discretion, for the benefit of the health, safety and welfare of the residents of the town may,

by resolution, temporarily amend the hours for construction work referenced herein."

Section 3. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 42, Environment, Division V, Noise, Section 42-230, to read as follows:

"Sec. 42-230. Lawn maintenance.

- (a) Lawn maintenance in the town shall be limited to the hours outlined for construction work at section 42-199 and leaf blowers shall be subject to the same restrictions as heavy equipment as described in said section.
- (b) Nothing in this section shall preclude the operation of lawn maintenance equipment by residents after 9:00 a.m. on Saturdays, Sundays or legal holidays, including the Friday immediately after Thanksgiving. Further, golf course maintenance equipment within the town is not restricted during the hours outlined herein; however, such golf course maintenance equipment shall not be used before 8:00 a.m. or after 5:30 p.m. on any day at locations within 300 feet of residential properties, except in the event of valid emergencies and once per month for purposes of chemical spraying or fertilizing. The sound level meter measurement shall be no greater than 75 dBA measured 50 feet from the point of operation of the equipment. The sound level meter measurement shall not be applicable to lawn maintenance equipment used on golf courses.
- (c) Lawn maintenance equipment includes but is not limited to lawn mowers, edgers, hedge trimmers, yard tractors, leaf blowers, lawn vacuum machines, and monofilament line grass trimmers.
- (d) Leaf blowers shall not exceed a decibel level of 65 dBA as measured at 50 feet from the point of operation. It shall be unlawful to blow, sweep or rake yard trash or clippings into the public street or storm drains.
- (e) There shall be no commencement of large scale landscape installation at any time on Saturdays."

Section 4. 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 5. 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.

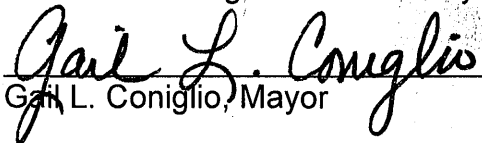
Section 6. Codification.

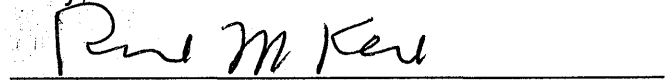
This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 7. 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 9th day of January, 2018, and for second and final reading on this 13th day of February, 2018.


Gail L. Coniglio, Mayor

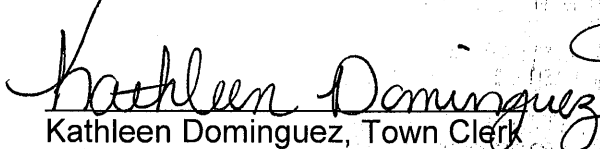

Richard M. Kleid, Town Council President

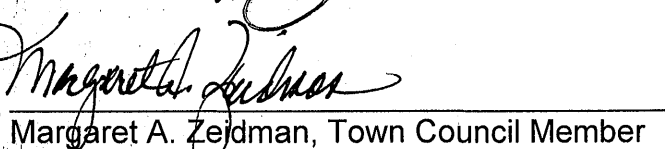

Danielle H. Moore, Council President Pro Tem


Julie Araskog, Town Council Member


Bobbie Lindsay, Town Council Member

ATTEST:


Kathleen Dominguez, Town Clerk


Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: September 2, 2021

To: Ordinances, Rules & Standards Committee

From: Jay Boodheshwar, Deputy Town Manager

Re: Review and Prioritization of Pending Items to be Studied by ORS at Future Meetings

Date: August 25, 2021

STAFF RECOMMENDATION

Staff recommends that the ORS Committee review the list below of pending study items for the Committee to address at future meetings and determine how they should be prioritized for review.

GENERAL INFORMATION

In addition to the items on the agenda for discussion at the September 2, 2021, ORS Committee meeting the following are pending items previously referred to ORS for study and recommendations to Town Council. Staff is seeking direction as to prioritization of each items to assist in the preparation for discussion at future ORS meetings.

- Truck Study Report
- How Deviations from Approved ARCOM and LPC Plans are Handled
- Chapter 42 of the Town Code, Article V – Noise

cc: Department Directors
John Randolph, Town Attorney