



TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE -
SUBJECT TO
REVISION

ORDINANCES, RULES AND STANDARDS COMMITTEE MEETING

AGENDA

Thursday, March 11, 2021
9:30 AM

Meeting Held Via Zoom
<https://zoom.us/j/97921535722>

- I. CALL TO ORDER AND ROLL CALL
Julie Araskog, Committee Chair
Lew Crampton, Committee Member
- II. PLEDGE OF ALLEGIANCE
- III. APPROVAL OF AGENDA
- IV. COMMUNICATIONS FROM CITIZENS
- V. REGULAR AGENDA
 - A. Old Business
 - 1. Review of Chapter 42 of the Town Code, Relative to Construction Hours
Jay Boodheshwar, Deputy Town Manager
 - B. New Business
 - 1. Prioritization of Pending Items to be Studied by ORS at Future Meetings, including (1) Height Limitations of Vegetation Adjacent to Neighboring Structures, (2) Landscape Buffers, (3) Synthetic Turf, and (4) Noise
[no written back-up]
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: March 11, 2021

To: Ordinances, Rules & Standards Committee

From: Jay Boodheshwar, Deputy Town Manager

Re: Review of Chapter 42 of the Town Code, Relative to Construction Hours

Date: March 6, 2021

STAFF RECOMMENDATION

Staff recommends that the ORS Committee review the information provided below and the attached materials pertaining to Chapter 42 of the Town Code, relative to construction hours, and provide direction.

GENERAL INFORMATION

After numerous months of research and review by the ORS Committee in 2017, Ordinance No. 03-2018 was adopted to modify construction and landscaping hours and include the following amendments:

- An earlier end of the summer construction season
- Prohibition of loud work on Saturdays
- Consistency in the hours permitted for construction and landscape maintenance work

The specific sections of Chapter 42 that were amended via Ordinance No. 03-2018 included Section 42-198. *Operation of certain machinery during winter, Saturdays, Sundays and legal holidays, including the Friday immediately after Thanksgiving*; Section 42-199. *Hours for construction work*; and Section 42-230. *Lawn maintenance equipment noise*. See the attached.

Subsequent to the adoption of Ordinance No. 03-2018, staff was advised by Town Council that there continues to be concerns about noise, traffic and parking associated with construction activity, so this item was sent back to the ORS Committee for further review. As a point of reference, please note that Code Enforcement has handled 121 total violations for construction hours over the past year. Of that, there were 45 total violations on Saturdays for construction hours. Compliance was gained by most through verbal warnings but fines had to be issued for some. Often times it is a sub-contractor committing the violation(s), but ultimately it is the general contractor who is responsible for their subs.

To assist in the 2017 discussions, Ms. Araskog completed additional research to determine how other similar communities govern allowable construction hours on Saturdays. As a reference for your continued discussion, below is a summary of her findings.

<u>Community</u>	<u>Saturday Work Allowed</u>	<u>Community</u>	<u>Saturday Work Allowed</u>
Coral Gables	Yes	Laguna Beach	Yes
Miami Beach	Yes	Brentwood	Yes
Key West	Yes	Alpine, NJ	Yes*
Longboat Key	Yes	Santa Monica	Yes
North Miami Beach	Yes	Palos Verdes	Yes
Jupiter	Yes	Beverly Hills	No*
Los Angeles/Bel-Air	Yes	East Hampton	Yes
Santa Barbara	Yes	Sarasota	Yes*
New York City	Yes	Sag Harbor	Yes
Jupiter Island	Yes	Malibu	Yes
Palto Alto	Yes	Naples	Yes
Fisher Island	No	Montecito	No
Atherton (CA)	No*		

Additional details pertaining to Saturday hours in each of the above communities follows:

Coral Gables

- Commercial and Residential Interior Construction is allowed, 9:00 a.m. to 5:00 p.m.
- Residential Exterior Construction is allowed, 9:00 a.m. to 5:00 p.m., if work is performed by property owner/resident under an owner builder permit, if work is performed by property owner/resident and does not require a permit, including power/pressure cleaning of sidewalks, driveway or roofs.
- Exterior construction is prohibited in residential areas or within 100 feet of residential zones.
- Music or radio programming that exceeds 60dB or 10dB over ambient noise is prohibited.

Miami Beach

- Allowed 10:00 a.m. to 4:00 p.m.in specified Residential zones.

Key West

- Allowed 9:00 a.m. to 5:00 p.m.

Longboat Key

- Sound Regulations were provided to staff. Construction and demolition noise is prohibited between the hours of 5:00 p.m. and 8:00 a.m.

North Miami Beach

- “It shall be unlawful for any person to engage in any outdoor construction or building activities which generate any offensive noises that affect the peaceable enjoyment of the neighborhood in any residential district in the City between the hours of 7:00 p.m. and 9:00 a.m. on Saturdays, Sundays and legal holidays.

Jupiter

- Allowed 8:00 a.m. to 4:00 p.m.

Los Angeles/Bel-Air

- Exterior Work is prohibited. Interior work is allowed 8:00 a.m. to 6:00 p.m.

Santa Barbara

- All construction work is prohibited between May 15 and September 15 after 3:00 p.m.

New York City

- Allowed 10:00 a.m. to 4:00 p.m. to existing one- or two-family, owner-occupied dwellings if the dwelling is located more than 300 feet from a house of worship.

Jupiter Island

- Allowed 8:30 a.m. to 1:00 p.m. during the winter season. Allowed 8:30 a.m. to 5:00 p.m. during the summer season, upon prior written approval of the administrative official.

Palto Alto

- Allowed 9:00 a.m. to 6:00 p.m.

Fisher Island

- Construction is allowed April 15 to November 15, 9:00 a.m. – 4:00 p.m. Monday through Friday.

Atherton (CA)*

- Construction is disallowed, however property owners personally undertaking construction activities may work Saturdays, Sundays and holidays between 10:00 a.m. to 5:00 p.m.

Laguna Beach

- Research provided to Staff is specific to “Construction Activity Noise Regulations,” specifying that no person engaged in construction shall operate equipment or machines that would disturb a person of normal sensitivity who works or resides in the vicinity. Permissible hours not provided.

Brentwood

- “Outside heavy construction” is allowed from 9:00 a.m. to 4:00 p.m. with city engineer’s approval; “Outside carpentry construction” is allowed from 9:00 a.m. to 5:00 p.m.

Alpine, NJ*

- Research provided to Staff is specific to “Noise.” Per the list of Excessive Noises Enumerated.... “Construction Work. The excavation, grading, paving, erection, demolition, alteration or repair of any premises, street, building or structure at any time on Sundays or legal holidays, or other than between the hours of 9:00 a.m. and 6:00 p.m. on **Saturdays** or between the hours of 7:00 a.m. and 6:00 p.m. on all other days.”

Santa Monica

- Allowed 9:00 a.m. to 5:00 p.m.

Palos Verdes

- Allowed 9:00 a.m. to 5:00 p.m.

Beverly Hills

- “No person shall engage in such work within a residential zone, or within five hundred (500) feet of a residential zone, at any time on a **Saturday** unless such person has been issued an after-hours construction permit.” It is not clear to staff what restrictions exist in non-residential zones.

East Hampton

- Allowed from 8:00 a.m. to 3:00 p.m.

Sarasota*

- Research provided to Staff is specific to “Noise Related Regulations.” Exemptions to prohibited noises include construction between 9:00 a.m. and 9:00 p.m. Although this Code provision is somewhat bewildering, it implies that some construction work is allowed on Saturdays.

Sag Harbor

- Allowed 9:00 a.m. to 5:00 p.m.

Malibu

- Allowed 8:00 a.m. to 5:00 p.m.

Naples

- Allowed in Residential Areas 7:00 a.m. to 6:00 p.m.

Montecito

- Construction is not allowed on weekends.

In preparation for the Committee’s discussion at the March 11 meeting, staff has provided the following items in the back-up:

1. A redline version of Ordinance No. 03-2018, to compared the regulations prior to the amendments.
2. Back-up from ORS meetings in 2017.
3. New construction and renovation permit information, dating back to 2014.

Attachments

cc: Wayne Bergman, Director of Planning, Zoning and Building
Nick Caristo, Police Chief
Ben Alma, Support Services Manager
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~~ December 1, and on all Saturdays, Sundays and legal holidays throughout the year, including the Friday immediately after Thanksgiving, 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 ~~D~~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 ~~(May through November)~~, 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. However, ~~the~~ permitted hours for construction work in the C-WA zoning district shall be only 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 on December 1~~ 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 ~~equipment noise.~~

- (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. Operation of lawn maintenance equipment shall be limited to the hours outlined for construction work at section 42-199, including the prohibitions stated therein on Sundays and all legal holidays. Nothing in this section shall preclude the operation of lawn maintenance equipment on Saturdays or the Friday immediately after Thanksgiving.~~
- (b) ~~Additionally, n~~Nothing in this section shall preclude the operation of lawn maintenance equipment, ~~including leaf blowers,~~ 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: for construction work at section 42-199;~~ 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.
- (~~bc~~) 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.
- (~~ed~~) ~~Leaf blowers shall be prohibited from use between the hours of 5:00 p.m. and 9:00 a.m. Additionally, during the period of the year commencing December 1 and ending April 30, leaf blowers may be~~

~~used on Saturdays only from 9:00 a.m. to 12:00 p.m.~~ 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

ATTEST:

Bobbie Lindsay, Town Council Member

Kathleen Dominguez, Town Clerk

Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Information for ORS Meeting on: September 7, 2017

To: Ordinance, Rules & Standards Committee

Via: Jay Boodheshwar, Deputy Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: Potential Code Change
Construction Hours

Date: August 29, 2017

STAFF RECOMMENDATION

Staff recommends that the Ordinance, Rules & Standards Committee review the various options outlined herein relative to permissible construction work hours during off-season Saturdays, and to thereafter formulate a specific Code amendment for presentation to the Town Council.

GENERAL INFORMATION

ORS has been in process of exploring potential changes to Town Code designed to bring relief to the “construction-weary” sentiment that has escalated in recent years. The Committee has researched permissible construction hours in other similar communities, determining that existing Monday – Friday hours are reasonable. At its most recent meeting of August 7, the Committee instructed staff to focus attention on permissible Saturday work hours, and to present options for consideration at its next meeting. The possibility of amending (possibly expanding) Code-enumerated seasonal months was also raised as a potential means of curtailing the negative side effects of construction.

Saturday work is not permissible during the high winter season (December – April). Saturday work is allowed May – November, from 8:00 a.m. until 6:00 p.m. The Committee was reluctant to eliminate all work on Saturdays following feedback from local contractors that restricted work hours would force construction prices to go up and project durations to elongate. The directive to staff was to return to ORS with specific options that would mitigate the disrupting effects of Saturday construction. It was also requested that staff contact the community of Montecito, CA (in unincorporated Santa Barbara County) to determine its permissible construction hours. Work is permissible there Monday – Friday, 7:30 a.m. to 4:00 p.m., with no work on weekends, except non-noise generating activity.

Staff has since identified a variety of potential Code changes, all of which would apply to off-season Saturdays only, that should alleviate construction noise and other associated impacts. Options include:

- Limit the number of permissible work hours. A 9:00 a.m. to 5:00 p.m. schedule (starting one hour later in the morning and ending one hour earlier in the afternoon would still allow an 8-hour work schedule).
- Restrict all construction activity to quiet work only.
- Restrict all construction activity to interior work only.
- Disallow all material deliveries.
- Disallow all concrete pours.
- Disallow demolition work.
- Restrict all on-street construction right-of-way parking (may be too onerous on small lots).
- Prohibit work altogether when active utility undergrounding construction is occurring (interpretation and enforcement may prove difficult).
- Amend the high winter season timeframe, which now begins each December 1, to commence one month earlier on November 1. If done, the high and low season durations would each be 6-months in length.
- Any combination of these options.

It is important to remember that “balance” must be found for residents that have grown tired of noise, dust, and traffic, and property owners/contractors that should be given reasonable consideration of their interests. From a staff perspective, the following amendment might achieve that balance:

“Saturday work is permissible from 9:00 a.m. until 5:00 p.m. Use of heavy equipment, material deliveries, concrete pours, and concrete sawing is prohibited. Construction parking shall not be allowed on public/private streets if viable parking exists on private property.”

Regardless of the option(s) chosen, staff envisions that there will be special circumstances that will require case-by-case discretion. The need to finish a roof in the case of an advancing storm is just one example. It is further suggested, therefore, that any amendment also include a statement to this effect:

“The Town Building Official, acting on his or her own accord, shall have the discretion to waive and/or alter Saturday construction hours and other restrictions when extraordinary conditions exist that compel an exception(s).”

No deliberate communications have been directed to local contractors since April of this year when staff sought feedback from the industry regarding further work hour restrictions. The Committee should remain cognizant that any Code change may be met with opposition from contractors.

cc: Tom Bradford, Town Manager
Skip Randolph, Town Attorney
Bill Bucklew, Building Official

PERMITS ISSUED

		2014	2015	2016	2017	2018	2019	2020	2021
B-B01	RESIDENTIAL NEW CONSTRUCTION/ADDITION	79	93	50	64	74	70	31	7
B-B02	RESIDENTIAL ALTERATION	425	460	434	462	427	505	391	28
B-B03	RESIDENTIAL OTHER W/PLANS	96	111	82	101	91	1	0	0
B-B05	COMMERCIAL NEW CONSTRUCTION/ADDITION	3	0	5	8	6	9	3	0
B-B06	COMMERCIAL ALTERATION	130	109	97	145	114	139	84	9
B-B07	COMMERCIAL OTHER W/PLANS	40	30	23	14	36	2	0	0
	totals	773	803	691	794	748	726	509	44
									TO DATE THROUGH 3/3/2021