

ORDINANCE NO. 016-2024

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 54, HISTORICAL PRESERVATION, AT ARTICLE III, CERTIFICATE OF APPROPRIATENESS, DIVISION 2, PROCEDURES AND EFFECT, SECTION 54-99, CONSTRUCTION SCREENING PLAN, BY PROVIDING REFERENCE TO SECTION 18-353, CONSTRUCTION SCREENING REQUIRED; AT CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, AT ARTICLE III, ARCHITECTURAL REVIEW, DIVISION 3, PROCEDURE AND REQUIREMENTS, SECTION 18-201, CONSTRUCTION SCREENING, BY PROVIDING REFERENCE TO SECTION 18-353, CONSTRUCTION SCREENING REQUIRED; AT ARTICLE VII, CONSTRUCTION SITE MANAGEMENT, BY ADDING SECTION 18-353, CONSTRUCTION SCREENING REQUIRED; BY AMENDING ARTICLE XVI, STORM SHUTTER REGULATIONS, AT SECTION 18-1010; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Palm Beach, Florida (“Town”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town has the authority, pursuant to Article VIII, Section 2(b) of the Florida Constitution, and Chapters 163 and 166, Florida Statutes, to adopt such land development regulations as it deems appropriate to further the health, safety, and welfare of its residents: and

WHEREAS, the Town wishes to promote safety and security and improve the aesthetic appearance of building sites that are under construction and buildings that may require the protection of hurricane protection devices like storm shutters;

WHEREAS, the Town Council through the adoption of this ordinance seeks to develop a consistent procedure and design for construction barriers; and,

WHEREAS, the Town Council through the adoption of this ordinance also seeks to provide for the hurricane protection of all structures certified for occupancy in the town and the duration of such protection.

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Palm Beach, Palm Beach County, Florida, as follows:

Section 1. The recitations set forth above are incorporated herein.

Section 2. Chapter 54, Historical Preservation, of the Town Code of Ordinances, is hereby amended at Article III, Certificate of Appropriateness, Division 2, Procedures and Effect, Section 54-99, Construction Screening Plan, by providing reference to Section 18-353, Construction Screening Required, as follows:

“Sec. 54-99. - Construction screening plan.

Depending upon the size and scope of a project, staff may request a construction screening plan to be submitted as part of Certificates of Appropriateness (COA) applications that demonstrates how the adjacent neighbors and public right-of-ways will be screened from the construction activity through the use of landscape, hardscape, and construction fencing/gates. For those projects where existing landscape and hardscape will remain in place during construction, which provide the necessary screening, this should be identified on the construction screening plan, and photographs of said landscape and/or hardscape screening shall also be provided. The construction screening plan must be approved by the Landmarks Preservation Commission, and the applicant must submit a permit for the approved additional landscaping and/or fencing/gates, install said material, have it pass inspection, and the permit closed-out prior to the issuance of a building permit for the new construction and/or renovation work associated with the major COA application. See Section 18-353, Construction Screening Required for detailed construction screening requirements.”

Section 3. Chapter 18, Buildings and Building Regulations, of the Town Code of Ordinances, is hereby amended at Article III, Architectural Review, Division 3, Procedure and Requirements, Section 18-201, Construction Screening, by providing reference to Section 18-353, Construction Screening Required, as follows:

“Sec. 18-201. - Construction screening.

A construction screening plan shall be submitted as part of all major ARCOM projects that demonstrates how the adjacent neighbors will be screened from the construction activity through the use of landscaping and construction fencing/gates. Said construction screening plan must be approved by ARCOM, and the applicant must submit a permit for the approved landscaping and/or fencing/gates, install said material, have it pass inspection, and the permit closed-out prior to the issuance of a building permit for the new construction and/or renovation work associated with the major ARCOM application. See Section 18-353, Construction Screening Required for detailed construction screening requirements.”

Section 4. Chapter 18, Buildings and Building Regulations, of the Town Code of Ordinances, is hereby amended at Article VII, Construction Site Management, by adding Section 18-353, Construction Screening Required, as follows:

“Sec. 18-353.- Construction screening required.

The provisions of this section shall apply to residential and nonresidential development as follows:

- (a) “Construction site” shall mean any site upon which construction or demolition work is occurring or upon which such work has commenced but has not been completed. The provisions of this section shall apply from the time earth is disturbed or raw building materials are placed on the site until the installation of all building fixtures and final landscape are completed.
- (b) All construction sites shall be secured and screened with a barrier of existing and/or new screening fence, site walls, and dense landscaping material to prevent public viewing of the construction project, unless otherwise exempted by this section. The entire construction site shall be screened except that a fence shall not be required on the side where the property abuts the Atlantic Ocean or intracoastal waterway, unless specifically requested by the Director of Planning, Zoning & Building or his designee.
- (c) Temporary construction barriers shall be installed and maintained at ground level on a construction site no sooner than ten days before commencement of construction.
- (d) Construction barriers that are visible from the right-of-way are subject to the following design requirements:
- (1) Construction barriers shall be between 6 to 12 feet in height, or a height approved by either the Architectural Review Commission or the Landmark Preservation Commission.
 - (2) Fencing shall not contain barbed wire, razor wire, razor ribbon or similar features.
 - (3) If a chain link fence is used as part of the construction screening, it must incorporate a fabric mesh creating a minimum opacity of 90%. The mesh fence panel shall be securely and tightly attached to the fence to prevent dust and debris intrusion upon adjacent properties. The screening must be substantial enough to avoid rips or tears due to wind or sun.
 - (4) Screening fences shall be of one color, either green or black, with the entire fence consisting of the same shade of green or black.
 - (5) Signage, murals, graffiti and other decorative elements of any nature are prohibited on the construction barrier.
 - (6) Construction barriers shall be maintained in good condition at all times.
 - (7) The number of access points onto the construction site shall be minimized.
- (e) The following activities are exempt from installing a construction barrier:
- (1) Emergency repairs necessary to protect the health, safety, and welfare of the community.
 - (2) Construction activities that occur within an existing, completely enclosed, opaque fence or wall.
 - (3) Landscape improvements.
 - (4) Plant removal.
 - (5) Exterior painting or cosmetic material repairs.
 - (6) Street and infrastructure improvements.
 - (7) Any improvements that take place within the public right-of-way.

- (f) All construction materials, dumpsters and portable toilets shall be placed within the area enclosed by the construction barrier; and construction sites shall be secured (gates closed) at night and on weekends when no work is being performed on the structure. The area outside the construction barrier, especially between the fence and the street pavement, must be kept clean, level, and free of any debris or construction material.
- (g) Temporary construction barriers shall be built and maintained in place in accordance with the Florida Building Code for the substantial completion of the project or until their removal is approved by the Director of Planning, Zoning & Building or his designee.
- (h) Prior to the installation of the construction barrier, the applicable building permits must be issued by the Building Division of the Planning, Zoning & Building Department. In addition, a site plan depicting the materials, location and access gates must be submitted.

Secs. 18-3534—18-400. - Reserved.”

Section 5. Chapter 18, Buildings and Building Regulations, of the Town Code of Ordinances, is hereby amended at Article XVI, Storm Shutter Regulations, by amending Section 18-1010, Periods during which storm shutters may remain in place, as follows:

“ARTICLE XVI. - STORM SHUTTER REGULATIONS

Sec. 18-1010. - Periods during which storm shutters may remain in place.

- (a) *During the period from December 1 to May 31 for commercial buildings and during the period from December 1 to April 30 for one and two-family dwellings and townhouse buildings not more than three-stories in height, no storm shutters or hurricane protection devices on commercial buildings shall remain in a closed/secured position so as to block windows or doors except in the event of storm conditions.*
- (b) *During the period of June 1 to November 30 for commercial buildings and during the period from May 1 to November 30 for one and two-family dwellings and townhouse buildings not more than three-stories in height, protection from windborne debris through the use of shutters and hurricane protection devices is encouraged for all structures certified for occupancy in the town. During said period, however, it is prohibited in commercial buildings to allow shutters or hurricane protection devices to remain in a closed/secured position except in preparation for an impending storm or hurricane for a period in excess of 14 days unless a hurricane or tropical storm watch occurs during the 14-day period at which point the 14-day period begins anew upon the posting of hurricane or tropical storm warnings. This section shall not apply to personal residences located within commercial buildings.”*

Section 6. 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 7. 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 8. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

Section 9. 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 April, 2024, and for second and final reading on this _____ day of _____, 2024.

Danielle H. Moore, Mayor

Bobbie D. Lindsay, Town Council President

Lewis S.W. Crampton, Council President Pro Tem

ATTEST:

Julie Araskog, Town Council Member

Edward A. Cooney, Town Council Member

Kelly Churney, Acting Town Clerk

Bridget Moran, Town Council Member