

Palm Beach Gardeners and Landscapers Association

514 14th Street, West Palm Beach, FL 33401

561- 689 - 6283

Palm Beach Town Council
360 South County Road
Palm Beach, Florida 33480

November 4, 2024

Re: **Draft Noise Ordinance Revisions** **with a focus on Traffic Mitigation**

To the Mayor and Town Council:

We would request that the Town Council (TC) refer this issue back to the Ordinance and Rules Committee (ORS) with guidance to ORS to consider the suggested Code edits. The attached outline incorporates the negotiated settlement terms from two meetings with senior Town staff to end the legal dispute while significantly helping to alleviate both traffic and parking problems, noting our industry has hundreds of big trucks commuting and working all over Town every day.

Town attendees at the meetings included a senior police Lieutenant, the Code Enforcement Director, the Development Services Director, and staff. It also is important to note that, for code enforcement plus the police as well as for our equal rights, all participants agreed that “Noise is Noise” – no matter where it comes from. The Town Manager and Town Attorney also were kept current about the meetings and supported moving this item on to a TC agenda to then go to ORS.

Town staff was surprised about the results of a Sunshine Law request looking over actual data from noise complaints over a 1+ year period. The results were surprising in that construction sites generated over 600% (SIX HUNDRED PERCENT) more complaints than lawn maintenance, noting 50% of the documented complaints on lawn maintenance that year came from GALA members which means the 600% number is actually far higher.

As a result of the misperceptions, the current language has merged the construction industry (Requires a Town permit) with lawn maintenance (Requiring **no** Town permit). These are two entirely different industries, and the bulk of residents’ complaints clearly have been about the construction industry. Though anecdotally residents have presumed lawn maintenance was just as bad as construction sites, the fact is such a misperception negatively and unfairly has impacted only our service industry.

Attendees also agreed that the current Ordinance’s wording as edited over many years is confusing and is causing discrepancies. One immediate example for TC to consider: this Christmas and New Years. For my 48 years working in Palm Beach, lawn maintenance was allowed to work for four days during each holiday week – the absolute busiest time of year for all of us. This year has changed during Christmas and New Years, though staff is following the technical wording. With this new schedule allowing lawn maintenance for **just 3 days**, it is impossible for us to squeeze 5 days of maintenance into just 3. We need a temporary waiver for this year as the holidays are upon us right now. During the referral to ORS, a TC “waiver” vote on this question to direct staff to adjust the calendar like it was for all of the prior years will be needed. Alternatively, 40% of residents (our clients) will get no service either of those two back-to-back weeks. Once again though, the Town allows every other service industry to work those 2 days – just not us.

One further negotiated example is lawn maintenance owners tentatively agreeing to new trailer restrictions to gain equal protection. As a balancing item, today, for 15 holidays, all service industries except lawn maintenance are permitted to work and make noise. Since 2022 (only 2 years ago), lawn maintenance was only prohibited from work for 9 days. Today, we are banned for 15 days per year – a 60+% increase **in just 2 years**. Not one other service industry is so restricted by the Town. The draft wording suggests no noisy work at all - by any service business - for the six major holidays, allowing lawn maintenance to earn a living on the same days as all other service businesses, while still closing all permitted, Town construction sites for the Town's 15 holidays.

The important item for TC to consider in its referral to ORS is that Town staff and the lawn maintenance industry have carefully considered the edits suggested to still provide a balance between working to address crushing traffic issues as well as peaceful enjoyment of the Town while maintaining award winning gardens throughout the Town. Before additional edits arise through public hearings needed to finalize any edits, TC should know any significant changes may result in a failure to resolve the legal dispute as both sides negotiated concessions to arrive at this version.

The Town is gaining:

1. Easing of rush hour conflicts
2. More quiet time by ALL industries
3. Reduction of trash pickup schedules
4. Easier enforcement of an understandable ordinance
5. RVP program
6. Resolution of legal dispute

Lawn maintenance companies:

1. Equal Protection
2. Better traffic flow
3. Earlier start time
4. Summer Saturdays for RVP
5. Minor holiday work
6. Consistency in rules

Another example of gaining equal protection is that every other service business is allowed to work on Saturdays. The idea was suggested to shorten the three-day trash pickup schedules by one month (Eliminate October) in exchange for the Saturday summer pruning work for hurricane protection allowance just for RVP trucks. For the added expense for the companies of training and certifying their drivers to understand and abide by the Ordinance in the RVP program, the Town would allow critical summer, Saturday work with battery or electric equipment only for this group.

The concept of a Responsible Vendor Program (RVP) was well received, and all participants agreed such a program was helpful, especially as to the employee training programs to insure they understand the Ordinance. This pilot RVP could work well for other industries in the future because the primary challenge for employers are the workers violating the Ordinance – not the owners.

We appreciate the Town Council's consideration of this draft with a referral to ORS. It is our hope we can resolve the remaining issues as they relate to our industry.

Sincerely,



Scott P. Lewis, Mbr.

cc: Ms. O'Connor, Esq., Jack Scarola, Esq.

NOISE ORDINANCES (Section 42-199 and 42-230)

SUGGESTED AMENDMENTS FOR LAWN MAINTENANCE

Section 42-199. “Hours for construction work”

- a. Definition - Add wording to include construction sites “requiring a Town permit”
- b. Delete all references to “Lawn Maintenance” in this section

Section 42-230. “Lawn Maintenance”

- c. Add a Definition
 - i. “*Lawn maintenance*” means the work of a physical nature requiring regular, weekly maintenance for the long-term preservation of existing gardens.
 - ii. Lawn maintenance includes related hedge and tree trimming as needed.
 - iii. Does not include permitted construction sites covered by Section 42-199
- d. **Divide the Town into four districts**
 - i. 3 Commercial Corridors
 - 1. Add Royal Poinciana and Royal Palm Way District to C-WA District
 - 2. Hours for allowance for noise – 8:00 AM – 6:00 PM
 - ii. Midtown
 - 1. Hammon Avenue north to Atlantic Avenue
 - 2. Hours for allowance for noise – 9:00 AM – 5:00 PM
 - iii. South end of Palm Beach
 - 1. Sloan’s Curve to south Town limits
 - 2. Hours for allowance for noise – 8:30 AM – 4:30 PM
 - iv. Single Family Homes
 - 1. Dunbar north to the inlet
 - 2. Gulfstream Road south to Sloan’s Curve
 - 3. Hours for allowance for noise – 8:30 AM – 4:30 PM
- e. **Parking in the Single-Family Home District**
 - i. Park all vehicles on north side of streets on MWF
 - ii. Park all vehicles on the south side of the street on TT
 - iii. To be implemented when practical
- f. **Trash Pickup**
 - i. Eliminate 3-day trash pickup for October
 - ii. 1 day pickup from October 1 – May 1 each year
- g. **Trailer restrictions**
 - i. For all tow behind trailers parking in Town ROW
 - 1. Must apply for a “Delivery” or a “ROW permit”
 - 2. Must have a Maintenance of Traffic plan (MOT)
 - 3. Delivery window needs to open for four hours

4. Limit ROW (“Delivery?”) permits to 1 day in season
5. Staff to allow for weather flexibility with these permits
6. Year-Round availability

h. Holidays:

- i. No work on six major holidays by any service companies (only on New Year’s, Memorial Day, July 4th, Labor Day, Thanksgiving, and Christmas)
- ii. No work on Sundays.
- iii. Additional restrictions for all service industries:
 1. Thanksgiving
 - a. Work allowed: Friday after – 8:30 AM – 5:00 PM
 - b. Quiet work only – 1 PM – 5 PM
 2. Christmas Eve
 - a. Work allowed: 8:30 AM – 5:00 PM
 - b. Quiet work only – 1 PM – 5 PM
 3. New Year’s Eve
 - a. Work allowed: 8:30 AM – 5:00 PM
 - b. Quiet work only – 1 PM – 5 PM

i. Gas Blowers

- i. NO gas leaf blowers whatsoever are permitted at any time
- ii. Use of a gas blower will result in a \$500 for offenders with no more warnings

--- See next page ---

Implement a Responsible Vendor Program (“RVP”):

- j. Fees:
 - i. Annual registration – suggested at \$250 per year
 - ii. Rely upon Town’s Digital plate program – a fee per approved vehicle
- k. Rules:
 - i. Owner shall certify every driver/foreman has been trained on the rules
 - ii. Training is certified as being in the driver’s native language
 - iii. Benefits to Town plus residents:
 - 1. Spread out traffic flows
 - 2. Alleviate parking issues
 - 3. Far wider training of employees on Town rules
 - 4. Self-policing by RVP members
 - 5. Less code violations
 - 6. Less complaints
 - 7. Less burden on Town staff plus Town Council
 - iv. Benefit to RVP members:
 - 1. NO Lawn Maintenance is ever allowed on Saturdays
 - 2. Saturdays – 8:30 AM – 3:00 PM
 - a. No work on Saturdays in the Mid Town District
 - b. Three other Districts – RVP only may work Saturdays in Single family Home district
 - i. October 1 – April 30
 - 1. No gas equipment
 - 2. Work allowed: 8:30 AM – 5:00 PM
 - ii. May 1 – October 1
 - 1. No gas equipment
 - 2. Perform tree trimming & hedge trimming
 - 3. Work allowed: 8:30 AM – 5:00 PM
 - v. Post hurricane
 - 1. RVP members gain access when residents are allowed
 - 2. Subject to local directives
 - vi. Penalties
 - 1. Fined according to Town schedules
 - 2. Three strikes for violations within one year
 - a. \$500 for third strike
 - b. Suspension from MVP for 12 months after 3rd violation
 - vii. Administration of RVP – To be determined