

TOWN OF PALM BEACH

Information for Town Council Meeting on: May 12, 2021

To: Mayor and Town Council

From: Wayne Bergman, Director of PZB

Via: Kirk Blouin, Town Manager

Re: Arcom and LPC Architect Exemptions

Date: May 5, 2021

BACKGROUND:

An on-going issue with the Arcom and Landmarks Commissions involves the conflict of interest provisions that apply to architects and the limited number of conflicts of interest that they can file in a calendar year. The Town codes for both Commissions state that once five (5) conflicts of interest for any Commission member is reached in a calendar year, that Commissioner is automatically removed from the Commission. Several Commissioners and Town Council members have questioned whether that number of conflicts of interest, five, is the appropriate number for architects and for the landscape architects that are required by code to serve on the Commissions. The thought is that good design professionals, in most cases, are active in their profession and may work for Town residents. Many of them are quite busy with their practice. It seems unreasonable for a well-regarded design professional, with an active practice involving Town projects, to be automatically removed from the commission solely because they follow the ethics rules and disclose their conflicts of interest.

In consultation with Skip Randolph, we discussed the various options available, including the possibility of raising the number of conflicts beyond five. We also looked at removing the "automatic" provision in the codes. Skip later suggested that we revise the codes to follow the ruling of the Florida Commission on Ethics as it relates to Florida Statute 112.313.

Based upon this State exemption, staff drafted two ordinances to exempt the required architects, landscape architects, or master gardener, from the number of conflicts of interest per year that would result in automatic removal. These two draft ordinances were provided as a starting point for a discussion on the matter at your April 14, 2021 meeting. The discussion included that the draft ordinances could be revised to say that a certain number of conflicts would trigger a Town Council review of the conflicts, not an automatic removal of the architect from the Commission. The Town Council could review the circumstances and decide if removal of the architect was needed. The Town Council shall have sole discretion as to whether an architect should be removed. Another discussion item was that perhaps the two architects that serve on Arcom would not have minor projects count towards the number of conflicts that would trigger a review.

These comments were reviewed with Skip Randolph and the ordinances were re-drafted for your consideration. Copies were sent to Ted Cooney for his review, which was a request of the Council last month.

Ordinance 09-2021 amends Chapter 18, Building and Building Regulations, Article III, Architectural Review, as described above. Ordinance 10-2021 amends Chapter 54, Historical Preservation, Article II, Landmarks Preservation Commission, as described above. Mr. Randolph has reviewed these two ordinances for both content and legal sufficiency. Both ordinances are ready for First Reading, if acceptable.

Attached: Draft Ordinance 09-2021
 Draft Ordinance 10-2021

WRB

ORDINANCE NO. 09-2021

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, ARTICLE III, ARCHITECTURAL REVIEW, DIVISION 1, GENERALLY, SECTION 18-170; 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 18, Buildings and Building Regulations, Article III, Architectural Review, Division 1, Generally, is hereby amended at Section 18-170, to read as follows:

“Sec. 18-170. - Conflicts of interest.

(a) If excessive conflicts of interest arise during any one calendar year, the architectural commission member shall be ~~automatically subject to being removed from the commission~~by the Town Council upon the Council’s review and consideration of the matter. The Town Council shall have the sole discretion as to whether removal shall be required. Excessive conflicts of interest are defined as five or more conflicts of interest in any one calendar year. Continuing conflicts of interest on a single application, once declared, shall not be counted as additional conflicts of interest. This rule shall apply from the date of adoption to the end of the 2013 calendar year and shall be applicable, thereafter, on a calendar year basis. Conflicts declared in regard to “minor projects” shall not be considered in the definition of “excessive conflicts” referenced above for those members of the Commission (architects and master gardeners, or their equivalent) who meet the requirements of Section 18-166 of this Chapter.

Section 2. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. Repeal of Ordinances in Conflict. All other ordinances of the Town of Palm Beach, Florida, or parts thereof, which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

Section 5. Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

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

ORDINANCE NO. 10-2021

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 54, HISTORICAL PRESERVATION, ARTICLE II, LANDMARKS PRESERVATION COMMISSION, SECTION 54-38(b); 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 54, Historical Preservation, Article II, Landmarks Preservation Commission, is hereby amended at Section 54-38(b), to read as follows:

"Sec. 54-38. - Removal provisions; absences; conflicts of interest.

(b) In the event of excessive conflicts of interest during any one calendar year, the commission member shall be ~~automatically subject to being removed from the commission~~ by the ~~town~~ Town Council Council upon the Council's review and consideration of the matter. ~~The Town Council shall have the sole discretion as to whether removal shall be required or, in the event of excessive conflicts of interest during any one term, a commission member may not be reappointed to a successive term.~~ Excessive conflicts of interest are defined as five or more conflicts of interest in any one calendar year. Continuing conflicts of interest on a single application, once declared, shall not be counted as additional conflicts of interest. This rule shall apply from the date of adoption to the end of the 2013 calendar year and shall be applicable, thereafter, on a calendar year basis.

Section 2. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. Repeal of Ordinances in Conflict. All other ordinances of the Town of Palm Beach, Florida, or parts thereof, which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

Section 5. Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach, Florida, on the First Reading this ____ day of _____, 2021; and for the Second and Final Reading on this ____ day of _____, 2021.

Danielle H. Moore, Mayor

Margaret Zeidman, Town Council President

Bobbie Lindsay, President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Lewis S.W. Crampton, Town Council Member

Queenester Nieves, CMC, Town Clerk

Edward Cooney, Town Council Member