

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: October 17, 2022

To: ORS Committee Members

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



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

Date: October 5, 2022

GENERAL INFORMATION & BACKGROUND

As was evidenced in the 2020 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.

This matter has been reviewed by the Town Council three times and sent to the ORS Committee twice for study.

Staff initially approached this matter with an ordinance to add new code regulations to Chapter 66, Natural Resource Protection, Article IV, Vegetation. However, the ORC Committee members requested that staff review existing regulations to see if this matter is already regulated under another Town Code. Staff reviewed Chapter 88, Property Maintenance Code, Sections 88-16 and 88-23, which deal with rodent and pest control, rodent harborage, and rodent infestation. These two sections did not provide the exact protection that staff, and the ORS Committee was looking for, but these two sections were easily modified to incorporate prohibitions on plantings and plant heights that provide for rodent or pest access onto adjacent buildings.

At the February 3, 2022 ORS Committee meeting, staff was given the direction to prepare a draft ordinance to amend the Property Maintenance Code (Chapter 88) to provide a prohibition on certain plants and plant heights that provide access for rodents and Iguanas onto or into neighboring buildings. Ordinance No. 007-2022 was drafted and presented to the Town Council in April of 2022, wherein it was approved on First Reading. However, at the May 10, 2022 meeting for the Second Reading, the ordinance was not adopted, and the matter was sent back to ORS for further review and possible amendment. The reasons included the ordinance language being too broad and limited clarity on the type of wildlife covered by the proposed regulations.

Attached: ORS Committee Memo, dated November 29, 2021
 Ordinance 007-2022
 Minute Excerpt from the May 10, 2022 Town Council Regular Meeting

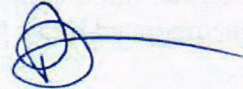
TOWN OF PALM BEACH

Information for ORS Meeting on: February 3, 2022

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: November 29, 2021

STAFF RECOMMENDATION

Staff requests that the ORS Committee consider the matter of possible prohibitions on plantings and plant heights that provide for rodent or pest access onto adjacent 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 initially reviewed by the Town Council and sent to the ORS Committee for study. The matter was considered at your September 2, 2021 and October 5, 2021 ORS meetings. The matter was then briefly discussed at the October 12, 2021 Town Council meeting. The matter was last reviewed at the ORS Committee meeting held on November 8, 2021.

Staff has been approaching this matter with an ordinance to add new code regulations to Chapter 66, Natural Resource Protection, Article IV, Vegetation. However, at the November 8, 2021 ORS Committee meeting, it was requested that staff review existing regulations to see if this matter is already regulated under another Town Code. Staff reviewed Chapter 88, Property Maintenance Code. Sections 88-16 and 88-23 exist today, dealing with rodent and pest control, rodent harborage, and rodent infestation. These two sections do not provide the exact protection that staff and the ORS Committee was looking for, but these two sections could be easily modified to incorporate prohibitions on plantings and plant heights that provide for rodent or pest access onto adjacent buildings.

Staff suggests that language could be added to these sections stating, "Plants and plant heights that provide for rodent or pest access onto neighboring buildings shall be prohibited", or similar language.

If this proposal is acceptable, staff can prepare an ordinance for Town Council consideration.

Also attached is a message from Steve & Martha Greenwald, with proposed ways to limit the distance to 4 feet, address affected neighboring buildings, limiting the regulations to midtown, and further limiting the regulations to neighbor requests. Some of all of these suggestions can be incorporated into a final ordinance.

Attached: Chapter 88, Sections 88-16 & 88-23
Email from Steve & Martha Greenwald, November 29, 2021

Sec. 88-16. - Exterior property areas.

(e)

Rodent harborage. Structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

Sec. 88-23. - Pest elimination.

(a)

Infestation. Structures shall be kept free from insect and rodent infestation. Structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

Wayne Bergman

From: Steven Jeffrey Greenwald, Esq. <3102724@gmail.com>
Sent: Monday, November 29, 2021 8:02 AM
To: Julie Araskog; John (Skip) C. Randolph; Jay Boodheshwar; Wayne Bergman
Subject: Perhaps 4 feet on that "Adjacent Growth" proposed 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.*****

Hello Jay, Wayne, Julie: Just thinking that perhaps that proposed rule change on adjacent growth could be **4 feet** from soffits or structures *instead of 6 feet* in the wording. Maybe that shorter distance would make the proposed rule more amenable to the full council.

Also a limitation of something like this: *"this rule would be applicable only to a neighbor's structure that is very near the lot line or boundary."* Or some other description of zero lot line structures, such as: *"this rule is only applicable in the midtown area, where some part of a neighbor's adjacent structure is at or near their lot line or boundary."* These are just some examples. The wording can be worked on even better than these 2 samples.

Also, a few words in a proposed rule could be: *"... if an adjacent property owner requests"* may be helpful. Many adjacent owners may not care about a hedge situation. Landscapers and owners would get used to such a simple rule, much like they did for the whitefly rule.

Most neighbors would be reasonable as to their requests under this new rule, and only ask a neighbor for hedge cutting if it was necessary.

But the way things are now, with no town code on this at all, anyone can plant anything anywhere; hedge owners can simply ignore a friendly request even if a situation is bad, spawning boundary issues that take up too much time of police, staff, council, etc. That is why many were interested in this simple rule addition.

Feel free to share this email with anyone, the Rules Committee, Council, staff, Town published Backup, etc.

Kind regards, your neighbors

Steve and Martha Greenwald

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.

ORDINANCE NO. 007-2022

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 88, PROPERTY MAINTENANCE CODE, AT ARTICLE II, DEFINITIONS, SECTION 88-14, GENERAL DEFINITIONS; AND AT ARTICLE III, GENERAL REQUIREMENTS, SECTIONS 88-16, EXTERIOR PROPERTY AREAS, AND 88-23, PEST ELIMINATION; 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 88, Property Maintenance Code, Article II, Definitions, Section 88-14, General Definitions, is hereby amended as follows:

*“Chapter 88 - PROPERTY MAINTENANCE CODE
ARTICLE II. – DEFINITIONS
Sec. 88-14. - General definitions.*

Pest elimination. The control of insects, Iguanas, rodents or other pests; and the elimination of insects, rodents or other pests ~~-by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.~~”

Section 2. Chapter 88, Property Maintenance Code, Article III, General Requirements, Sections 88-16, Exterior Property Areas, Subsection (e); and 88-23, Pest Elimination, Subsection (a); is hereby amended as follows:

*“ARTICLE III. - GENERAL REQUIREMENTS
Sec. 88-16. - Exterior property areas.*

(e) Rodent harborage. Structures and exterior property shall be kept free from rodent harborage and infestation. Plants and plant heights that provide for rodent, Iguana, or pest access onto neighboring buildings shall be prohibited. Where rodents are found, they shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

Sec. 88-23. - Pest elimination.

- (a) *Infestation. Structures shall be kept free from insect and rodent infestation. Plants and plant heights that provide for rodent, Iguana, or pest access onto neighboring buildings shall be prohibited. Structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation."*

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 _____ of _____, 2022, and for second and final reading on this _____ day of _____, 2022.

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie Lindsay, Council President Pro Tem

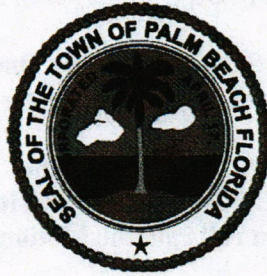
Julie Araskog, Town Council Member

ATTEST:

Edward Cooney, Town Council Member

Pat Gayle-Gordon, Acting Town Clerk

Lewis S.W. Crampton, Town Council Member



MINUTES OF THE TOWN COUNCIL MEETING HELD ON MAY 10, 2022

I. CALL TO ORDER AND ROLL CALL

The Town Council Meeting of Tuesday, May 10, 2022, was called to order at 9:33 a.m. in the Town Council Chambers. On roll call, all council members were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Acting Town Clerk Gayle-Gordon gave the Invocation and President Zeidman led the Pledge of Allegiance.

III. MODIFICATIONS TO THE AGENDA

The following modifications were made to the Agenda:

- 1) Addition of Item No. XII.C.4
Consideration of scheduling an Attorney/Client Session immediately following the Town Council meeting on May 10, 2022, in the Town Council Chambers, 360 South County Road, Palm Beach, Florida, to discuss the following matter: Palm Beach Hotel Condominium Association, Inc. v. Town of Palm Beach- Case Number 50-2020-CA-002757-XXXX-MB (AG). Attorney/Client Session Attendees: Mayor Danielle H. Moore; Town Council President Margaret A. Zeidman; Town Council President Pro Tem Bobbie Lindsay; Town Council Members Julie Araskog, Edward A. Cooney, Lewis S. W. Crampton; Town Manager Kirk Blouin; Town Attorneys John C. Randolph and Joanne M. O'Connor, and Pleasanton, Greenhill, Meek & Marsaa Court Reporters.
John C. Randolph, Town Attorney
- 2) Original item no. XII.C.4 is now item no. XII.C.5.
- 3) Item No. XII.B.3. should be retitled: Discussion Regarding Temporary COVID Seating Extension and Café Permits

IV. APPROVAL OF AGENDA

This item was heard out of order of the agenda.

2. Review of a Stop Work Order Due to Three Strike Rule at 310 Clarke Avenue. [Wayne Bergman, Director of Planning, Zoning and Building]

Motion was made by Council Member Araskog and seconded by Council President Pro Tem Lindsay to defer this item to the May 11, 2022 Development Review Meeting. On roll call, the Motion passed unanimously.

3. Garbage Collection at Town Marina
TIME CERTAIN: 3:00 PM [Bobbie Lindsay, Council President Pro Tem]

This item was heard out of order of the agenda.

4. Noise Complaints Concerning Car Washing Activities in Residential Areas. [Julie Araskog, Town Council Member]

This item was heard out of order of the agenda.

XIII. ORDINANCES

A. Second Reading

1. Proposed Ordinance to Amend Chapter 2 Article X Section 2-636 of the Town Code to Modify the Responsibilities of the Shore Protection Board

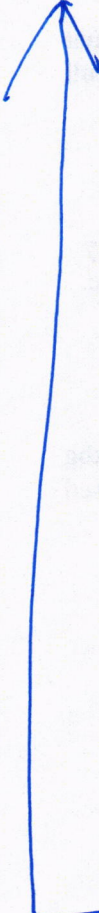
ORDINANCE NO. 006-2022 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 2, Article X, Section 2-636, Shore Protection Board; Providing for Severability, Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date. [H. Paul Brazil, P.E., Director of Public Works]

Town Attorney Randolph read the title of the ordinance.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to adopt Ordinance No. 006-2022 on second reading. On roll call, the Motion passed unanimously.

2. Proposed Ordinance to Amend Chapter 88 Articles II and III of the Town Code to Modify Hedge Heights and Eliminate Pests

ORDINANCE NO. 007-2022 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 88, Property Maintenance Code, at Article II, Definitions, Section 88-14, General Definitions; and at Article III, General Requirements, Sections 88-



16, Exterior Property Areas, and 88-23, Pest Elimination; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing an Effective Date. [Wayne Bergman, Director of Planning, Zoning and Building]

Town Attorney Randolph read the title of the ordinance.

Council Member Araskog expressed concern over language in the ordinance being too broad and requested that it be referred back to ORS.

Council Member Cooney expressed concern over the broadness of the language.

Council President Pro Tem Lindsay expressed concern over the language, as well and spoke regarding that while this ordinance began with iguanas, there there are also concerns with squirrels, rats and other wildlife.

Town Manager Blouin stated that this issue is not a great concern and that there are not any complaints at this time.

Discussion ensued regarding the proposed language changes in order to provide for enforcement.

It was consensus of the Town Council to refer this Ordinance to the Ordinances, Rules and Standards Committee for further review.

B. First Reading

1. Proposed Ordinance to Amend Chapter 42 Article V, Section 42-228 to Modify the Decibel level in Area 4 of the Town

ORDINANCE NO. 008-2022 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, Environmental at Article V, Noise at Section 42-228, Nonvehicular Noise Amending the Maximum Level, dba Measurement In Geographic Area 4 to be Consistent with the Measurements in Geographic Areas 1 And 3, I.E., 61 Decibels During the Day and 55 Decibels at Night; Providing for Repeal of Ordinances or Parts of Ordinances in Conflict Herewith, Providing for Severability; Providing for Codification; Providing an Effective Date.
[Nicholas Caristo, Chief of Police]

Town Attorney Randolph read the title of the ordinance.

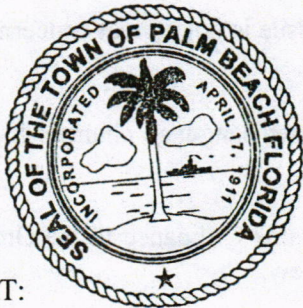
Motion was made by Council Member Araskog and seconded by Council Member Cooney to approve Ordinance No. 008-2022 on first reading. On roll call, the Motion passed unanimously.

XIV. ANY OTHER MATTERS

Discussion ensued regarding a discussion being added to Any Other Matters on the May 11, 2022 Development Review Meeting regarding native landscaping list and ordinance.

XV. ADJOURNMENT

Motion was made by Council Member Cooney and seconded by Council Member Araskog adjourn the May 10, 2022 Town Council meeting at 6:22 PM. On roll call, the Motion passed unanimously.



APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Pat Gayle-Gordon, Acting Town Clerk

6/14/2022

Date