

TOWN OF PALM BEACH

Town Council Meeting on: October 12, 2021

Section of Agenda

Ordinances - First Reading

Agenda Title

Proposed Ordinance to Amend Chapter 66 of the Town Code, Regarding Native and Invasive Vegetation

ORDINANCE NO. 24-2021 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 66 Natural Resource Protection, at Article I, in General, Section 66-2, Definitions; at Article IV, Vegetation, Division 1, Generally, Section 66-212, Purpose and Intent; at Article IV, Division 3, Plans, Section 66-285; and at Article IV, Vegetation, Division 5, Regulations, Section 66-311; Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

Presenter

Wayne Bergman, Director of Planning, Zoning & Building

ATTACHMENTS:

- ▣ **Memorandum Dated September 24, 2021 from Wayne Bergman, Director of Planning, Zoning and Building**
- ▣ **Ordinance No. 24-2021**

TOWN OF PALM BEACH

Information for Town Council Meeting on: October 12, 2021

To: Mayor & Town Council

Via: Kirk Blouin, Town Manager

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

Re: Native Landscaping Regulations Amendments – Ord. No. 24-2021

Date: September 24, 2021

GENERAL INFORMATION

Chapter 66, Natural Resource Protection, was updated in early 2019 to address the benefits of using native landscape. The update included a requirement for new landscape projects to include at least 25% native vegetation. Native landscape plants were identified by referencing a few different Florida plant lists and guides.

Since the adoption of the update, staff and applicants have questioned how the 25% requirement should be calculated and which plant list or guide was best to follow. These questions have remained unanswered for about a year and a half. Landscape plans today show compliance with the 25% minimum, but there is no specificity on how the 25% is calculated and the plans usually do not show which list or guide was followed to delineate native versus non-native plants. These issues were presented to the Town Council last year and the matter was forwarded to the ORS Committee to review.

Staff made a presentation to the ORS Committee on July 1, 2021. The questions of how to calculate the 25%, which plant guide should be followed, and whether 25% was an appropriate amount of natives, were posed to a few landscape design professionals over the past year, and their responses were provided to ORS. A lengthy discussion occurred at the meeting and options were reviewed, but ORS did not find answers to the questions raised by staff and others. As a result, the matter went back to Town Council on August 10, 2021 to seek direction on how to resolve the open issues. The matter was deferred by the Town Council at that meeting until September 14, 2021. That delay provided an opportunity for ORS Committee consider and review the matter further at their September 2, 2021 meeting.

During their September 2, 2021 meeting, the ORS Committee again had a lengthy discussion on the native plant matter. The ORS Committee agreed at that meeting to recommend the following to the Town Council:

- Calculate the native plant requirement based upon the quantity of plants, not by the plant coverage.
- Increase to 35% the minimum amount of native plants in each of the following five categories: trees, palms, shrubs, ground cover and vines. Each of these categories would require a minimum of 35% native plants.
- Use the Institute for Regional Conservation (“IRC”), Natives for Your Neighborhood as the sole listing for native plants. This online list allows to filter by zip code.
- Use the Florida Invasive Plant Species Guide (“FLIP”) as the list for Category 1 and 2 invasive plants.

The Town Council again reviewed the matter at their September 14, 2021 meeting. The Council agreed with the recommendations made by the ORS Committee and asked staff to draft an ordinance to cover the recommended changes. The draft ordinance was reviewed by Skip Randolph for form and legal sufficiency. Ordinance No. 24-2021 is ready for First Reading at your October 12, 2021 meeting.

cc: Jay Boodheshwar, Deputy Town Manager
James Murphy, Assistant Planning, Zoning and Building Director
John Randolph, Town Attorney

ORDINANCE NO. 24-2021

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 66 NATURAL RESOURCE PROTECTION, AT ARTICLE I, IN GENERAL, SECTION 66-2, DEFINITIONS; AT ARTICLE IV, VEGETATION, DIVISION 1, GENERALLY, SECTION 66-212, PURPOSE AND INTENT; AT ARTICLE IV, DIVISION 3, PLANS, SECTION 66-285; AND AT ARTICLE IV, VEGETATION, DIVISION 5, REGULATIONS, SECTION 66-311; 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 66, Natural Resource Protection, Article I, In General, Section 66-2, Definitions, is hereby amended by changing the definitions of “Native Plant Species” and “Pestilent Exotic / Invasive Species”, to read as follows:

“Native plant species shall be the plant species indigenous to the Town of Palm Beach, Florida region and found through the Institute for Regional Conservation (“IRC”), Natives for Your Neighborhood.” ~~ecological communities of South Florida, as indicated as native to South Florida by the University of Florida in the Atlas of Vascular Plants, or that can be scientifically documented to be native to South Florida.~~

Pestilent exotic/invasive species means species as identified by the Florida Invasive Plant Species Guide (“FLIP”)~~Exotic Pest Plant Council's Invasive Plant List.~~”

~~*Pestilent exotic species means any specimen of Melaleuca (Melaleuca quinquenervia), Australian Pine (Causarina spp.), or Brazilian Pepper (Schinus terebinthifolius), regardless of size.”*~~

Section 2. Chapter 66, Natural Resource Protection, Article IV, Vegetation, Division 1, Generally, is amended at Section 66-212, Purpose and Intent, subsection (6), to read as follows:

“Sec. 66-212. - Purpose and intent.

It is the intent of the town to promote the health, safety and welfare of existing and future residents of the town by establishing minimum standards for the protection of natural plant communities, and the installation and continued maintenance of landscaping within the town, in order to:

(6) Eradicate Category I invasive exotic plant species and eradicate or control Category II invasive exotic plant species as listed on the most current Florida Exotic Pest Plant Council's List of Invasive Plant SpeciesInvasive Plant Species Guide (“FLIP”).”

Section 3. Chapter 66, Natural Resource Protection, Article IV, Vegetation, Division 3, Plans, is amended at Section 66-285, General, to read as follows:

“Sec. 66-285. - General.

(1) At least ~~25-35~~ percent of all new required landscaping, in the form of trees, palms, shrubs, vines and ground cover plants, ~~other than grass~~, shall consist of native vegetation. To determine appropriate native vegetation the ~~Xeriscape Plant Guide by the South Florida Water Management District, or if available County or regional lists as amended may~~ Institute for Regional Conservation (“IRC”), Natives for Your Neighborhood, shall be used.”

Section 4. Chapter 66, Natural Resource Protection, Article IV, Vegetation, Division 5, Regulations, Subdivision I, In General, is amended at Section 66-311, Prohibited Plants, Subsections (a) and (c) is removed, regarding Prohibited Species and Future Removal Requirements, to read as follows:

“Sec. 66-311. - Prohibited plants.

(a) Prohibited species. ~~The following plants have been shown to be~~ Plants identified as pestilent exotic species ~~and~~ shall not be installed as landscape material, and shall be removed from property as part of development and redevelopment activity, ~~and~~ prior to the issuance of a permit for said development and redevelopment activity.” ~~or pursuant to the schedule and terms specified in subsection (c) of this section:~~

~~(c) Future removal requirements. In addition to the removal requirements set forth in subsection (a) above, a property owner shall remove or cause to be removed or eradicated the prohibited invasive non-native vegetation listed in subsection (a) above by January 1 of the year specified in the following table:~~

COMMON NAME	SCIENTIFIC NAME	YEAR
Old-World Climbing Fern	Lygodium microphyllum	2004
Air Potato Vine	Dioscorea bulbifera	
Melaleuca, — Punk Tree	Melaleuca quinquenervia	2006
Brazilian Pepper	Schinus terebinthifolius	2008

<i>COMMON NAME</i>	<i>SCIENTIFIC NAME</i>	<i>YEAR</i>
<i>Carrotwood</i>	<i>Eupaniopsis anacardioides</i>	
<i>Earleaf Acacia</i>	<i>Acacia auriculiformis</i>	<i>2010</i>
<i>Schefflera</i>	<i>Schefflera actinophylla</i>	<i>2006</i>
<i>Australian Pine*</i>	<i>Casuarina spp.</i>	<i>2012*</i>
<i>Kudzu</i>	<i>Pueraria montana var. lobata</i>	<i>2008</i>

~~* The 2012 date relating to the removal of the Australian Pine, Casuarina spp. shall only be applicable to Australian Pines which are within 500 feet of a county designated natural area described in subsection (d) below, i.e., the Palm Beach Island Sanctuaries. Upon removal of the prohibited and invasive non-native vegetation specified under this section, the property owner shall maintain the property free of such prohibited invasive non-native vegetation."~~

Section 5. 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 6. 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 7. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

Section 8. 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