

Monday, February 12, 2024
Commission Workshop
7 PM



Town Hall Commission Chambers
247 Edwards Lane
Palm Beach Shores, FL 33404

Mayor Alan Fiers
Vice Mayor Tracy Larcher

Commissioner TBD
Commissioner Steven Smith
Commissioner Roby DeReuil

Town Attorney Keith Davis
Town Treasurer Darlene Hopper
Town Clerk Jude M. Goudreau

PLEASE NOTE:

THIS MEETING IS ALSO CONDUCTED USING COMMUNICATION MEDIA TECHNOLOGY

Join information.

Meeting link:

<https://townofpalmbeachshores.my.webex.com/townofpalmbeachshores/my/j.php?MTID=mc3c3e27cd0278470c2c0f0cc0a1fe38b> Meeting number: 2634 050 7396 Password: 0212

Join by phone +1-408-418-9388 United States Toll Access code: 263 405 07396.

COMMISSION WORKSHOP AGENDA

1) Call to Order

- Pledge of Allegiance
- Roll Call

2) Discussion Items:

- Purchase Bobcat or similar vehicle for cleaning debris with unrestricted funds from road project.
- Discussion Resolution Supporting Infrastructure Surtax (Keith Davis).
- Revised Ordinance O-7-23 Retaining Walls.
- Revised Ordinance O-8-23 Road Paving.

3) Unfinished Discussion Items: (previous meetings)

- Short Term Rentals Draft Code

4) Project Updates:

- Road Paving Project- Final Report
- Community Center Kitchen- Final Report
- SeaSpray

5) Public Comments: (3 minutes per person, per topic, state your name for the record.)

6) Adjournment:

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision made by the Town Commission with respect to any matter considered at this meeting or hearing, such interested person will need a record of the proceedings, and for such purpose may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. The meeting/hearing will be continued from day to day, time to time, place to place, as may be found necessary during the aforesaid meeting. IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), THIS DOCUMENT CAN BE MADE AVAILABLE IN AN ALTERNATE FORMAT (LARGE PRINT) UPON REQUEST AND SPECIAL ACCOMODATIONS CAN BE PROVIDED UPON REQUEST WITH THREE (3) DAYS ADVANCE NOTICE. FOR HEARING ASSISTANCE: If any person wishes to use a hearing device, please contact the Town Clerk.

RESOLUTION 23-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATLANTIS, FLORIDA, EXPRESSING SUPPORT FOR THE EXTENSION AND CONTINUATION OF THE PALM BEACH COUNTY ONE-CENT SALES SURTAX TO FUND LOCAL INFRASTRUCTURE PROJECTS THROUGH DECEMBER 31, 2036; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, in November 2016, the voters of Palm Beach County approved an increase to the local sales tax from 6 cents per dollar to 7 cents per dollar; and

WHEREAS, the one-cent sales surtax increase became effective on January 1, 2017, and will automatically sunset upon the earlier occurrence of either December 31, 2026, or the generation of \$2.7 billion in total revenue; and

WHEREAS, the generated one-cent sales surtax revenue is divided between the School District of Palm Beach County (50%), Palm Beach County (30%), and the 39 Palm Beach County municipalities (20% shared amongst them); and

WHEREAS, the generated one-cent sales surtax revenue may only be utilized for infrastructure projects such as roads, sidewalks, bridges, schools, parks, and government buildings and facilities; and

WHEREAS, infrastructure projects provide access to clean water, electricity, transportation, and other essential services, which directly impact the health and well-being of individuals, families, and the wider community; and

WHEREAS, the City of Atlantis has received one-cent sales surtax revenue in the amount of \$1,100,000 since January 1, 2017, which has allowed the City to improve its infrastructure facilities and simultaneously maintain a lower property tax millage rate; and

WHEREAS, the City of Atlantis recognizes the direct and beneficial impact the one-cent sales surtax revenue for infrastructure projects has provided to Atlantis residents, as well as the schools of Palm Beach County, and the surrounding communities; and

WHEREAS, the City of Atlantis supports a collaboration with the School District of Palm Beach County, Palm Beach County, and the other municipalities of Palm Beach County to extend and continue the one-cent sales surtax revenue for infrastructure projects beyond its current automatic sunset deadlines; and

WHEREAS, the City of Atlantis specifically supports seeking voter approval to continue the one-cent sales surtax revenue for infrastructure projects until December 31, 2036.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATLANTIS, FLORIDA, THAT:

Section 1. The above recitals are true and correct and are hereby incorporated into this section of this resolution as if fully set forth herein.

Section 2. The City Council of the City of Atlantis hereby expresses its support for seeking voter approval to continue the one-cent sales surtax revenue for infrastructure projects until December 31, 2036.

Section 3. The City Manager is directed to forward this Resolution to each of the Palm Beach County Commissioners with a copy to the Palm Beach County Administrator, the Palm Beach County League of Cities, and the School District of Palm Beach County.

Section 4. This resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED this 20th day of September, 2023.

<input checked="" type="checkbox"/>	_____	_____
Aye		Nay
<input checked="" type="checkbox"/>	_____	_____
Aye		Nay
<input checked="" type="checkbox"/>	_____	_____
Aye		Nay
<input checked="" type="checkbox"/>	_____	_____
Aye		Nay
<input checked="" type="checkbox"/>	_____	_____
Aye		Nay


CITY OF ATLANTIS




Mayor Allan Kaufoch



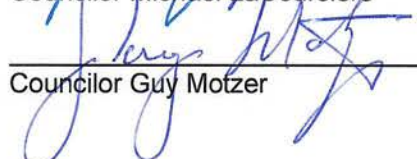
Vice Mayor Keller Lanahan



Councilor Derek Cooper



Councilor Michael LaCoursiere



Councilor Guy Motzer

ATTEST:



Kristen Puhalainen, City Clerk



APPROVED AS TO FORM AND
LEGAL SUFFICIENCY.



Keith W. Davis, Esq., City Attorney

ORDINANCE NO. O-7-23

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, AMENDING APPENDIX A – ZONING ORDINANCE., SECTION IX – WALLS, FENCES AND HEDGES. AT PF. 9.2. – LIMITATIONS. TO ESTABLISH A MAXIMUM RETAINING WALL AND FENCE HEIGHT NECESSARY TO SCREEN NEIGHBORING PROPERTIES WHERE UNEVEN GRADES EXIST AT THE COMMON PROPERTY LINE; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town Code does not adequately contemplate recent updates to the Federal Emergency Management Agency’s (“FEMA’s”) requirements for finished floor elevations and how this impacts the grade elevation of a property in relation to the adjacent parcels; and

WHEREAS, this increase in required grade elevation and finished floor elevation of a structure, particularly on those parcels located in the AE Flood Zone, creates the potential for mismatched grades at the common property line between parcels within the Town; and

WHEREAS, the creates rear yards and pool decks with differing elevations which leads to line of sight and privacy concerns into the neighboring properties; and

WHEREAS, the Town Commission of the Town of Palm Beach Shores believes these amendments to the Town’s Code are in the best interest of the health, safety and welfare of the Town, its citizens, and all those doing business with the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, THAT:

Section 1: Appendix A. – Zoning Ordinance of the Code of Ordinances of the Town of Palm Beach Shores is hereby amended at Section IX. Walls, Fences and Hedges., Pf. 9.2. Limitations. to establish a maximum retaining wall heights and fence heights necessary to screen neighboring properties where uneven grades exist at common property line; providing that Pf. 9.2. shall hereafter read as follows:

Pf. 9.2. – Limitations

(a) *Generally*. Unless otherwise provided herein, walls, fences and hedges shall conform to the following general requirements.

1. Walls and fences may be placed on private property as near the lot lines of the property as can be reasonably accommodated.

a. When located behind the front building line (also known as the front setback), walls and fences may be a maximum of six (6) feet in height measured from the grade excepted as provided in subpart 3 below.

[Subsections (b) through (d) to remain in full force as adopted.]

[Subsection (2) to remain in full force as adopted.]

3. *Inconsistent grades*. If the grade elevation at the lot line of the abutting lot ~~is~~ does not a reasonable match to the grade elevation at which the wall, fence or hedge is to be placed, the height of the wall, fence or hedge shall be measured from the lower of the conflicting grade elevations.

a. Retaining walls installed at the adjoining lot line shall be a maximum of three (3) feet in height measured from the lower of the conflicting grade elevations and placed to the rear of the front setback line. Retaining walls within the front setback shall be a maximum of two (2) feet in height as measured from the lower of the conflicting grade elevations. A transitional zone shall be provided at a length of 10 feet to allow for the grade change to accommodate the retaining wall height. This transition shall not occur nearer than five (5) feet to the face of the front building façade.

b. The exterior side of retaining walls shall be finished with painted stucco or painted cement block in a neutral color to match the subject property's principal structure. Compliance with this requirement shall be considered by the Planning and Zoning Board as part of the Architectural and Aesthetic application review.

c. Fences or fencing affixed to or atop of or immediately abutting a retaining wall shall, when measured to include both the retaining wall

and fence or fencing, have a combined total maximum height of seven (7) feet as measured from the lower of the conflicting grade elevations.

d. Where an inconsistent grade exists with decking or similar improvement equal to the elevation found at the highest point of the retaining wall, the use of landscaping in the form of hedges or trees shall be used to screen the view into the adjacent property to a minimum height of six (6) feet as measured from the highest elevation.

e. If a retaining wall is installed at the adjoining property line, drainage shall be accommodated on-site and shall not discharge to adjacent properties.

Section 2: Each and every other Section of Appendix A. – Zoning Ordinance. shall remain in full force and effect as previously adopted.

Section 3: All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

Section 4: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 5: Specific authority is hereby granted to codify this Ordinance.

Section 6: This Ordinance shall take effect immediately upon passage.

FIRST READING this ____ day of February, 2024.

SECOND AND FINAL READING this ____ day of March, 2024.

TOWN OF PALM BEACH SHORES

Alan Fiers, Mayor

ATTEST:

Jude Goudreau, Town Clerk

(Seal)

Approved as to form and legal sufficiency.

Keith Davis, Town Attorney

ORDINANCE NO. O-8-23

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, AMENDING CHAPTER 62. STREETS, SIDEWALKS AND OTHER PUBLIC PLACES., ARTICLE I. IN GENERAL. BY ADDING AN ENTIRELY NEW SECTION 62-4. TO BE TITLED "REQUIREMENTS FOR DISTURBING, CUTTING INTO, DIGGING UP, DRILLING, BORING UNDER, OR EXCAVATING ANY PUBLIC STREET." PROHIBITING THE CUTTING INTO OF NEWLY PAVED/REPAVED ROADS WITHIN THE TOWN FOR A PERIOD OF THREE YEARS AFTER COMPLETION OF THE PAVING/REPAVING, PROVIDING EXCEPTIONS, PROVIDING A PERMIT PROCESS FOR WORK SPECIFICALLY IMPACTING TOWN ROADWAYS, AND SETTING FORTH REQUIRED ENGINEERING SPECIFICATIONS FOR ALL PAVING AND REPAIR OF IMPACTED ROADWAYS; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 62 SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town Code is silent regarding specifications for the paving or reaving of roadways within the Town after disturbances and/or cuts to Town-owned and maintained roadways have been made; and

WHEREAS, with the current road paving project being conducted throughout the Town, the addition of a codified permit process and technical requirements for the backfill, compaction and construction of road repairs is necessary to ensure the longevity of the newly paved roadways and to eliminate the potential for uneven or substandard repairs; and

WHEREAS, the Town Commission of the Town of Palm Beach Shores has determined that these amendments to the Town's Code are in the best interest of the health, safety and welfare of the Town, its citizens, and all those doing business with the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA, THAT:

Section 1: Chapter 62 – Streets, Sidewalks and Other Places., Article I. – In General. of Ordinances of the Town of Palm Beach Shores is hereby amended to add an

entirely new Section 64-4. – Requirements for disturbing, cutting into, digging up, drilling, boring under, or excavating any public street. prohibiting the cutting into of newly paved/repaved roads within the town for a period of three years after completion of the paving/repaving, providing exceptions, providing a permit process for work specifically impacting Town roadways, and setting forth required engineering specifications for all paving and repair of impacted roadways; providing that Sec. 64-4. shall hereafter read as follows:

Sec. 64-4. - Requirements for disturbing, cutting into, digging up, drilling, boring under, or excavating any public street.

(a) No Disturbance for Three Years. No person shall disturb, cut into, dig up, drill into, bore under, or excavate any newly paved/repaved roadway in Town for a period of three (3) years after completion of such paving/repaving except as follows:

1. Emergency repair work, as determined by the director of the public works department or designee to be necessary to prevent or mitigate an immediate threat to the public health, safety, and welfare. All such emergency repair work shall be completed in conformance with the specifications set forth in subsection (g) below.

2. Non-emergency repair work, as determined by the Town Commission to be necessary or advisable under the circumstances on a case by case basis. All such non-emergency repair work shall be completed in conformance with the specifications set forth in subsection (g) below.

(b) Applicability to Existing Roadways. All disturbing, cutting into, digging up, drilling, boring under or excavating existing roadways shall have a base compaction and shall be restored in conformance with the specifications set forth in subsection (g) below.

(c) Permit required. Except as prohibited in subsection (a) above, when a person desires to disturb, cut into, dig up, drill into, bore under, or excavate any public street, whether existing or new, application shall be made to the town. No person shall apply for a permit to perform such work without disclosing in the permit application the person on whose behalf such work is being performed. Failure to fully disclose his/her/their interest/participation/representation in the permit

application or to fulfill all town requirements for issuance of the permit shall result in the Town: 1) immediately revoking any permit previously granted causing such permit to become null and void without any further action, hearing or proceeding, or 2) issuing a written notice that the permit will not be granted due to violation of this provision by the person applying for the permit. The town shall have the right to take all legal measures and seek all available remedies to enforce this provision. The permit shall set forth minimal reasonable conditions, as permitted by law, necessary for the protection of property and personal safety, restoration of the roadway to the specifications set forth below which are satisfactory to the town, and any on-going maintenance or reparations for un-repaired conditions or damages that may be required under the circumstances and extent of the work to be performed under the permit. Any violation of the conditions set forth or any violations under applicable law shall render the permit automatically null and void, without the necessity of any further action or proceeding. The permit shall cover the length of time necessary and reasonable according to the type of activity involved.

(d) *Underground utilities; underground facility.* All persons shall fully comply with F.S. ch. 556, entitled "The Underground Facility Damage Prevention and Safety Act" ("Chapter 556"), as amended. No town permit will be required from operators of underground facilities in order to identify underground facilities. In other instances, permits required by this section shall be required. F.S. ch. 556 is incorporated by reference herein as though set forth in full. Excavators and member operators shall comply with low-impact marking practices, including, without limitation, a subsequent notice, as required by F.S. § 556.114, as amended. Markings required by F.S. ch. 556 shall be made with flags or stakes, or temporary, non-permanent paint or other industry-accepted low-impact marking practices.

(e) *Bonded improvements; issuance of permit; time for completion.*

(1) Whenever an individual, company, or agency applies for a permit to disturb, cut into, dig up, drill, bore under, or excavate a street per subsection (c) above, the individual, company, or agency shall deliver to the town building department a

bond or surety in the amount of one and one-half of the cost of the restoration as calculated by the town. The bond or surety shall be:

- a. A site restoration bond written by an approved domestic surety. Except for bonds for a wireless service provider as defined in F.S. § 337.401(7)(b)(13), as amended, all bonds shall carry the name and address of a local representative, be for an initial period of one year, and shall be automatically extended in increments of one year until the permittee and the surety company are notified in writing of the acceptance of the street restoration and closure of the permit; or
- b. An irrevocable letter of credit drawn on a local bank, valid for an initial period of one year, with automatic renewal in increments of one year until the permittee and the issuing bank are notified in writing of the acceptance of the street restoration and the closure of the permit.

(2) Upon receipt of the above-referenced surety, payment of the applicable permit fees and completion of the application, the town may issue a permit for the work, and the director of the public works department shall determine when the work is to be completed, including restoration of the street, right-of-way or easement in accordance with the standards and specifications as set forth in subsection (g) below. The individual, company, or agency shall thereafter be authorized to proceed and shall complete the work within the time prescribed by the permit and applicable permit conditions.

(f) *Patching of roadway openings.* All public streets opened because of construction in a right-of-way in accordance with a permit shall be patched by the permittee as quickly as possible after the completion of construction. The patch shall be a straight-edge type extending a minimum of two (2) feet from the edge of the cut or caved in area. The minimum width of any patch shall be ten (10) feet. All patches shall meet the standards and specifications as set forth in subsection (g) below. The paving surface of a patch shall be of material as similar to the original as possible. The permittee shall be responsible for all settling and patch failure for a one-year period following the final patch. If any correction is required during the one-year period following the final patch, the one-year period will be extended to

one year from the date of the correction. Any correction work incidental to the issuance of a permit may be executed by the town at the permittee's expense or by the permittee upon demand for correction by the town.

(g) Paving and repaving specifications. All street paving, including whole roadways, sections, or repairs (emergency and non-emergency) within the town shall fully comply with the specifications below:

BACKFILL AND COMPACTION

PART 1 GENERAL

1.01 SECTION INCLUDES

A. Backfill and compaction for underground pipes and structures.

REFERENCES

A. ASTM D1557-02 – Laboratory Compaction Characteristics of Soil Using Modified Effort.

B. ASTM D2487-00 – Classification of Soils for Engineering Purposes.

C. ASTM D2922-05 – Test Methods for Density of Soil and Soil-Aggregate in Place by Nuclear Methods.

PART 2 PRODUCTS

2.01 SOIL MATERIALS

A. General: Provide borrow soil materials when sufficient satisfactory soil materials are not available from excavations.

B. Satisfactory Soils: ASTM D2487 soil classification groups GW, GP, GM, SW, SP, and SM, or a combination of these groups, free of rock or gravel larger than 3 inches in any dimension, debris, waste, vegetation, and other deleterious matter.

C. Unsatisfactory Soils: ASTM D2487 soil classification groups GC, SC, ML, MH, CL, CH, OL, OH and PT, or a combination of these groups.

1. Unsatisfactory soils also include satisfactory soils not maintained within 2 percent of optimum moisture content at time of compaction.

D. Backfill and Fill: Satisfactory soil materials.

PART 3 EXECUTION

3.01 PLACEMENT

- A. Material placed under and around structures shall be deposited within the lines and to the grades shown on the Drawings, making due allowance for settlement of the material. Material shall be placed on properly prepared surfaces which have been reviewed by the Engineer. If sufficient common fill material is not available from excavation on site, the Contractor shall provide borrow as may be required.
- B. If the compacted surface of any layer of material is determined to be too smooth to bond properly with the succeeding layer, it shall be loosened by harrowing or by another approved method before the succeeding layer is placed.
- C. All backfill materials shall be placed and compacted "in-the-dry". Contractor shall dewater excavated areas as required to perform the Work.

3.02 COMPACTION

- A. Backfill shall be placed in layers not to exceed twelve inches in depth as measured before compaction. Each layer shall be compacted to at least the minimum percentage of a modified proctor (ASTM D1557 / AASHTO T-180) specified in the Compaction Scheduled in paragraph 3.03.
- B. Areas adjacent to structures and other confined areas inaccessible to a vibratory roller shall be compacted with a manually operated vibratory compactor.
- C. It is the intention that the fill materials with respect to moisture be used in the condition they are excavated insofar as this is practicable. Material which is too wet shall be spread on the fill area and permitted to dry, assisted by harrowing if necessary, until the moisture content is reduced to allowable limits.
- D. If added moisture is required, water shall be applied by sprinkler tanks or other sprinkler systems which will ensure uniform distribution of the water over the area to be treated and give complete and accurate control of the amount of water to be used. If too much water is added the area shall be

permitted to dry before compaction is continued.

- E. Supply all hose, piping, valves, sprinklers, pumps, sprinkler tanks, hauling equipment, and all other materials and equipment necessary to place the water on the fill.

3.03 COMPACTION SCHEDULE

<u>Location</u>	<u>Minimum Compaction</u>
<u>Under paved areas</u>	<u>98%</u>
<u>Structures</u>	<u>98%</u>
<u>Under landscaped areas</u>	<u>95%</u>

3.04 DISPOSAL OF UNSUITABLE AND SURPLUS MATERIAL

- A. Unsuitable and surplus excavated materials become the property of the Contractor and are to be removed and disposed of off site.
- B. Suitable excavated material may be used for fill or backfill if it meets these specifications.

3.05 TESTING

- A. Allow testing laboratory to inspect and test subgrades and each fill or backfill layer. Proceed with subsequent earthwork only after test results from previously completed Work complies with requirements.
- B. Testing agency will test compaction of soils in place according to ASTM D2922.
- C. When testing agency reports that subgrades, fills or backfills have not achieved degree of compaction specified, scarify and moisten or aerate, or remove and replace soil to depth required; recompact and retest until specified compaction is obtained.

3.06 PROTECTION

- A. Protect newly graded areas from traffic and erosion. Keep free of trash and debris.
- B. Repair and re-establish grades to specified tolerances where completed or partially completed surfaces become eroded, rutted, settled, or where they lose compaction due to subsequent construction operations or weather conditions.

(h) *Indemnity, hold harmless, and insurance.* It shall be a condition precedent to the issuance of any permit that the applicant agree to indemnify, defend, and hold harmless the town, its officials, employees, agents, and, if applicable, its instrumentalities and each of them from and against all loss, cost, penalties, fines damages, claims of any nature, including expenses and attorneys' fees, and any and all liabilities by reason of injury to or death of any person, damage to, destruction, or loss to any property including the town, its instrumentalities, officials, employees, and agents arising out of or in connection with the performance or non-performance of the services contemplated by the permit which is directly or indirectly caused, in whole or in part, by any act, omission, default, liability, or negligence, whether active or passive, of the applicant, its employees, agents, servants, or contractors, unless such act or omission is solely caused by the town, its instrumentalities, officials, employees, and agents. The applicant must also agree to indemnify, defend, and hold harmless the town, its instrumentalities, officials, employees, and agents against all liabilities which may be asserted by an employee or former employee of the applicant, or any of its contractors as provided above, for which the applicant's liability to such employee or former employee would otherwise be limited to payments under workers' compensation or similar laws. In addition, the applicant understands and agrees that except where caused by the negligence or misconduct of the town, its instrumentalities, officials, employees, or agents, the town shall not be liable for any loss, injury, or damage to any personal property or equipment of the applicant, its employees, agents, contractors, business licensees, or invitees placed on town property, and its instrumentalities, and shall be at the risk of the applicant thereof. The applicant shall be solely responsible for all activities and the installation and maintenance of traffic-control devices. The applicant shall ensure that adequate safety precautions are made at all times during the term of the permit. It shall be a further condition precedent to the issuance of any permit for work to be performed in the public right-of-way that the permit holder(s) is/are jointly and severally responsible, at each permit holder's sole expense, for any damages

regarding restoring the public right-of-way to its original condition before installation of facilities. The indemnification shall survive termination of the permit.

(i) Supervision by the director of the public works department. All disturbances, digging up or excavation of streets in the town shall be made under the supervision and direction of the director of the public works department, or designee.

(j) Enforcement. Failure to comply with these provisions or the provisions detailed in F.S. ch. 556 shall subject all persons to the procedures, violations, penalties prescribed in F.S. ch. 556, or code enforcement proceedings pursuant to chapter 2, article III, division 2 of this Code, or both.

Section 2: Each and every other Section of Chapter 62 – Streets, Sidewalks and Other Public Places. shall remain in full force and effect as previously adopted.

Section 3: All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

Section 4: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 5: Specific authority is hereby granted to codify this Ordinance.

Section 6: This Ordinance shall take effect immediately upon passage.

FIRST READING this ____ day of December, 2023.

SECOND AND FINAL READING this ____ day of February, 2024.

TOWN OF PALM BEACH SHORES

Alan Fiers, Mayor

ATTEST:

Jude Goudreau, Town Clerk

(Seal)

Approved as to form and legal sufficiency.

Keith Davis, Town Attorney

ARTICLE I. - VACATION RENTALS

Sec. 1. - Vacation rental defined; permit required.

A vacation rental is any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project. A transient public lodging establishment is any such unit which is rented out to guests more than three (3) times in a calendar year for periods of less than thirty (30) days or one (1) calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods less than thirty (30) days or one (1) calendar month, whichever is less.

It shall be unlawful for any person or entity to operate a vacation rental within the town, or offer such property for rent as a vacation rental within the town, unless the person or entity has registered such property with the town by obtaining a vacation rental permit in accordance with the requirements of this article. Separate permits are required for each individual vacation rental unit. All vacation rental permits shall be renewed annually and shall be considered delinquent if not renewed by September 30 of each year. Vacation rental permits are separate and distinct requirements in addition to business tax receipts and certificates of use.

Sec. 2. - Vacation rental permit application.

Every vacation rental owner or operator shall register with the town by submitting to the building department a completed vacation rental permit application in a form promulgated by the town, together with registration and inspection fees in amounts established by resolution of the town commission, which amounts may be amended from time to time. A separate permit application form with separate registration and inspection fees shall be required for each vacation rental unit.

- (1) *Permit application.* A complete vacation rental permit application form shall include the following:
 - a. Property card printout from the county property appraiser database;
 - b. Current transient public lodging establishment license issued by the state department of business and professional regulation;
 - c. Current certificate of registration with the state department of revenue for remittance of applicable state taxes;
 - d. Current palm beach county business tax receipt;
 - e. Total number of sleeping rooms at the vacation rental unit; maximum number of guests that can stay overnight at the vacation rental unit at any one time (maximum occupancy is eight in four or more sleeping rooms);
 - f. Maximum number of individuals that may gather at or occupy vacation rental unit property at any one time (maximum number of individuals permissible is one and one-half times the maximum occupants authorized to stay overnight at the vacation rental unit, and in no case more than 12 individuals);

- g. Homeowners or property owners association approval to operate the vacation rental unit, if applicable;
 - h. Floorplan of the vacation rental unit which includes stairways, hallways, bedrooms, exists, and which identifies all fire extinguisher locations;
 - i. Site survey which includes the residential unit, any swimming pools, hot tubs, spas, and fencing;
 - j. A copy of a sample lease agreement;
 - k. A completed vacation rental responsible party designation, in the format prescribed by the town, which includes the information required by section 3 of this Code; and
 - l. Proof that the vacation rental has satisfied the inspection requirements contained in section 5 of this Code.
- (2) *Modification of permit.* An application for modification of a vacation rental permit shall be required in the event that any of the following changes to the vacation rental are proposed:
- a. An increase in the gross square footage;
 - b. An increase in the number of bedrooms;
 - c. An increase in the maximum occupancy;
 - d. An increase in the number of parking spaces, or a change in the location of parking spaces;
 - e. An increase in the number of bathrooms; or
 - f. Any other material modifications that would increase the intensity of use on the vacation rental property.
- (3) *Duration of permit.* A vacation rental permit issued under this article shall expire each September 30 and may be annually renewed thereafter if the property is in compliance with this article.
- (4) *Renewal of permit.* A vacation rental permit renewal shall be completed by September 30 of each year, through the execution of a renewal affidavit, in the format prescribed by the town, and the payment of the renewal fee as established by the town. A property owner may apply for renewal of a vacation rental permit beginning July 1 prior to the expiration of the annual license.
- (5) *Incomplete permit application/renewal.* If the permit application or renewal form submitted pursuant to this article is incomplete, the applicant shall be informed of such deficiency and shall have ten (10) calendar days to correct the deficiency. If any deficiency is not so corrected, the permit application shall be deemed withdrawn.
- (6) *Outstanding code violations.* The town shall not process any vacation rental registration or renewal if the property has unresolved code violations or code enforcement liens.
- (7) *Non-transferability and non-assignability of permit.* Vacation rental permits issued under this article are non-transferrable and non-assignable. If the ownership of any vacation rental property is sold or otherwise transferred, the new owner is required to apply for new permits.
- (8) *Permit application or renewal fees.* The town charges reasonable administrative fees to process a vacation rental permit application or renewal, the amount of

which shall be established by resolution of the town commission. Fees are non-refundable.

- (9) *False or misleading information.* It shall be unlawful for any person to give false or misleading information in connection with any application for, modification, or renewal of a vacation rental permit as required by this article. Vacation rental permit applications shall be sworn to under penalty of perjury. Any false statements made in an application shall be a basis for the revocation of any permit issued pursuant to such application.

Sec. 3. - Vacation rental responsible party.

Every permitted vacation rental under this article must designate a responsible party to respond to routine inspections as well as non-routine complaints and any other problems related to the operation of the vacation rental. The property owner may serve in this capacity or shall otherwise designate another person 18 years or older to perform the following duties:

- (1) Be available by telephone at the listed phone number 24 hours per day, seven days per week and be capable of handling any issues relating to the operation of the vacation rental;
- (2) If required, be willing and able to return to the vacation rental within 60 minutes following notification from a vacation rental occupant, law enforcement officer, emergency personnel, or the town to address any issues relating to the operation of the vacation rental;
- (3) Maintain a record of all lease/rental agreements for the vacation rental, as well as a record of all guests of the vacation rental. Both of these records shall be available for inspection upon request;
- (4) Receive service of any legal notice on behalf of vacation rental owners or operators for violation of the requirements set forth in this article; and
- (5) Conduct an on-site inspection of the vacation rental at the end of each rental period to ensure continued compliance with the requirements of this article.

Sec. 4. - Vacation rental standards.

No person or entity shall own or operate a vacation rental within the town unless such vacation rental complies with the following standards:

- (1) *Minimum life/safety requirements.*
 - a. *Swimming pool, spa and hot tub safety.* A swimming pool, spa or hot tub shall comply with the current standards of the Residential Swimming Pool Safety Act, as set forth in F.S. ch. 515.
 - b. *Smoke and carbon monoxide (CO) detection and notification system.* Each vacation rental unit must be outfitted with an operational smoke and carbon monoxide (CO) detection notification system. Every smoke and carbon monoxide (CO) detection notification system must be hard-wired, or have a sealed ten-year battery. A smoke alarm shall be installed in each sleeping room. A carbon monoxide alarm shall be installed outside each sleeping room

and adjacent to the garage door. All smoke and carbon monoxide alarms shall be interconnected.

- c. *Fire extinguisher.* A portable, multi-purpose dry chemical 2A:10B:C fire extinguisher shall be installed, inspected and maintained in accordance with NFPA 10 on each floor/level of the dwelling unit. The extinguisher(s) shall be installed on the wall in an open common area or in an enclosed space with appropriate markings visibly showing the location.
- d. *Local telephone service.* At least one (1) landline telephone with the ability to call 911 shall be available in the main level common area in the vacation rental.
- e. *Secondary means of escape.* Every sleeping room and living area shall have a secondary means of escape. It shall be a minimum of one (1) doorway or one (1) window directly to the exterior. The window shall have a clear opening compliance with the following:
 - 1. Clear width shall be no less than 20 inches;
 - 2. Clear height shall be no less than 24 inches;
 - 3. Opening shall be no less than 5.7 square feet; and
 - 4. Opening shall be no more than 44 inches above the floor.

(2) *Maximum occupancy.*

- a. Each vacation rental dwelling unit shall comply with Sec. 14-266 "Occupancy Limitations" of the Town's Code of Ordinances, provided however that:
 - 1. The maximum number of transient occupants authorized to stay overnight at any vacation rental unit shall be limited to two (2) persons per sleeping room, and a maximum total occupancy of eight (8) individuals in four or more sleeping rooms. The number of sleeping rooms shall be confirmed by on-site inspection by a representative of the town, and
 - 2. The maximum number of persons allowed to gather at or occupy a vacation rental shall not exceed one and one-half times the maximum occupants authorized to stay overnight at that site, as shown on the vacation permit application, and in no event shall a gathering exceed twelve (12) individuals.

(3) *Solid waste handling and containment.* Solid waste and recycling collection services shall be provided pursuant to Chapter 38, of the Town Code of Ordinances. For purposes of this section, a solid waste or recycling container shall not be placed at curbside before the day prior to solid waste pickup, and each solid waste or recycling container shall be removed from curbside before midnight of the day of pickup.

(4) *Designation of responsible party.* Each vacation rental owner or operator shall designate a responsible party capable of meeting the duties provided in section 3.

(5) *Rental or lease agreement requirements.*

- a. There shall be a written or online lease, rental, tenant or other recorded agreement memorializing each vacation rental tenancy between the owner/operator or its responsible party and the occupant(s). The agreement shall, at a minimum, contain the following information:

1. The maximum number of occupants for the unit as specified in subsection (2) above;
 2. The number of parking spaces associated with the vacation rental property or dwelling unit, if applicable, and a sketch or photograph showing the location of such spaces;
 3. The names and ages of all persons who will be occupying the property or unit;
 4. The dates of such occupancy; and
 5. A statement that all occupants must evacuate from the vacation rental following any evacuation order issued by local, state or federal authorities.
- b. The town reserves the right to request and receive a copy of any vacation rental lease or rental agreement from the owner/operator or responsible party at any time.
- (6) *Vacation rental unit posting requirements.*
- a. The vacation rental unit shall be posted with the following information next to the main entrance door:
 1. The name, address and telephone number of the vacation rental responsible party;
 2. The days and times of solid waste and recycling pick up and a notification that all garbage or trash must be placed in a garbage or trash can or other approved solid waste receptacle and that all recyclables must be placed in approved recyclable containers;
 3. The location of the nearest hospital; and
 4. The location of designated parking spaces/areas, if applicable.
 - b. There shall also be posted, next to the interior door of each bedroom, a building evacuation map (at least 8 ½ inches by 11 inches).
- (7) *Other regulations.* Vacation rentals must comply with all other regulations, standards and requirements set forth in the Town Code of Ordinances, including, but not limited to, the requirements of Chapter 6 (alcoholic beverages), Chapter 10 (animals), Chapter 14 (buildings and building regulations), Chapter 42 (nuisances, including noise regulations), Chapter 70 (traffic and vehicles), Chapter 74 (utilities), Chapter 78 (vegetation), Chapter 82 (waterways), and Appendix A zoning ordinance.

Sec. 5. - Initial and subsequent compliance inspections of vacation rentals.

- (a) *Initial inspection.* An initial inspection of the vacation rental by a town code inspector and/or building department personnel, for compliance with this article is required prior to the issuance of a vacation rental permit. If violations are found, all violations must be corrected, and the property or dwelling unit must be re-inspected prior to issuance of the vacation rental permit as provided herein.
- (b) *Subsequent inspections.* Once a vacation rental permit is issued, a vacation rental must be properly maintained in accordance with the vacation rental standards herein and will be re-inspected annually. For an inspection, all violations must be corrected and re-inspected within thirty (30) calendar days. Failure to correct such inspection

deficiencies in the timeframes provided shall result in the suspension of the vacation rental permit until such time as the violations are corrected and re-inspected.

- (c) *Inspection appointments.* The inspections shall be made by appointment with the vacation rental responsible party. If the inspector has made an appointment with the responsible party to complete an inspection, and the responsible party fails to admit the officer at the scheduled time, the owner shall be charged a "no show" fee in an amount established by resolution of the town commission to cover the inspection expense incurred by the town.
- (d) *Notice of failure of inspections.* If the inspector(s) is denied admittance by the vacation rental responsible party or if the inspector fails in at least three (3) attempts to complete an initial or subsequent inspection of the rental unit, the inspector(s) shall provide notice of failure of inspection to the owner to the address shown on the existing vacation rental application or permit.
 - (1) For an initial inspection, the notice of failure of inspection results in the vacation rental permit not being issued; the vacation rental is not permitted to operate without a valid permit.
 - (2) For a subsequent inspection, the notice of failure of inspection is considered a violation and is subject to enforcement remedies as provided herein.

Sec. 6. - Prohibitions; evidence of unlawful vacation rental operation.

- (a) It shall be unlawful for any person or entity to rent, lease, advertise or hold out for rent any property or dwelling unit for vacation rental use without a vacation rental permit, or pending application under section 2.
- (b) Prima facie evidence of vacation rental uses of a property or dwelling unit shall include:
 - (1) Registration or licensing for short-term rental or transient rental use by the state under F.S. chapters 212 (Florida Tax and Revenue Act) and 509 (Public Lodging and Food Service Establishments);
 - (2) Advertising, listing, posting, or otherwise holding out a property or dwelling unit for vacation rental use on the internet or other mass communication medium;
 - (3) Reservations, booking arrangements or more than one signed lease, sublease, assignment, or any other occupancy or agreement for compensation, trade, or other legal consideration addressing or overlapping any period of 30 days or less;
 - or
 - (4) The use of an agent or other third person to make reservations or booking arrangements.
- (c) Nothing set forth herein precludes the town from presenting other forms of evidence of unlawful vacation rental use or operation.

Sec. 7. - Administration of vacation rental permits; criteria for denial, suspension, cancellation, or revocation of permits; appeals; enforcement.

- (a) *Issuance or denial by the town upon application.* The town may either approve a vacation rental permit application/renewal or deny such application/renewal in conjunction with the issuance of a notice of denial upon a finding that one or more

of the criteria at section 7(b)(1)—(5) are not met. In addition, the town may, upon approval of a vacation rental permit application/renewal, impose reasonable conditions of operation as may be necessary to protect the public health, safety and welfare.

(b) *Specific criteria which may result in the denial, suspension, or revocation of a vacation rental permit by the town or special magistrate.* A vacation rental permit may be denied, suspended, or revoked by the town, or suspended or revoked by the special magistrate, as further provided herein, when it is determined that:

- (1) A property owner or vacation rental permit applicant (owner/applicant) has misrepresented or failed to disclose material facts or information which is required to be included in the vacation rental permit application and any other application required by the town, the county or the state;
- (2) The same or substantially similar vacation rental activity on the subject property during the preceding 12-month period, has been conducted in such a manner as to have violated the town's Code of Ordinances which regulates the use or operation of the vacation rental premises and/or one of the following determinations is made:
 - a. The activity has become a public nuisance as set forth in town code;
 - b. The activity constitutes a public nuisance at common law;
 - c. The activity violates the town's regulations as set forth in Chapter 6, alcoholic beverages;
 - d. The activity is manifestly injurious to the public morals; or
 - e. The vacation rental has been operated in such a manner as to injure the health, safety, or welfare or to disturb the quiet enjoyment of the citizens in the nearby vicinity.

This criterion shall not apply if the vacation rental permit application/renewal is in conjunction with new ownership of the subject property. "New ownership" for this purpose requires an actual change in the individuals who have ownership interests in the subject property. The mere re-structuring of corporate holding companies or other transfers deemed to be illusory in nature shall not be considered "new ownership."

- (3) The issuance or renewal of the vacation rental permit was contingent upon the owner's/applicant's compliance with specific provisions of the town's, the county's or the state's laws and the owner/applicant has not satisfied or has violated such conditions, to include but not limited to, specific conditions of approval imposed through development orders issued by the town;
 - (4) An owner/applicant has violated any provision of this article and has failed or refused to cease or correct the violation at the subject property after having been notified to do so by the town or by an order of the special magistrate; or
 - (5) The premises have been condemned by the local health authority or by the town building official and/or fire marshal for failure to meet state and local standards.
- (c) *Appeals.*

- (1) Any owner/applicant aggrieved by a town decision regarding denial of a vacation rental permit application/renewal may file an appeal by requesting a hearing before the code enforcement special magistrate. The hearing request must be in writing and filed with the town attorney within ten (10) calendar days of receipt of

the decision complained of. The hearing request must also specify the decision and the principal grievance of the owner/applicant. The town shall then provide such applicant/owner notice of a hearing before the special magistrate pursuant to Section 2-75 of the Town Code of Ordinances.

- (2) Hearing procedures shall be as prescribed in Chapter 2, Article III, Division 2 of the Town Code of Ordinances. The special magistrate's findings and order shall constitute the final administrative action of the town for purposes of judicial review under state law.
 - (3) If the owner/applicant fails to seek timely appellate review of an order of the special magistrate under this subsection and continues to operate the vacation rental premises in violation of the order and/or this article, the town may pursue any and all enforcement procedures necessary, including abatement of the violation. Any costs for enforcement or abatement action shall be placed as a lien against the owner/applicant's real and personal property.
- (d) *Enforcement procedures, generally.*
- (1) *First-time violations.* Upon determination by the town that a vacation rental is being operated in a manner consistent with a first-time violation of this article, the town shall notify the property owner and/or vacation rental permit-holder of the nature of such violation pursuant to Section 2-75 of the Town Code of Ordinances. Likewise, notice of a hearing before the special magistrate, if needed, shall be provided to the property owner and/or permit-holder pursuant to Section 2-75 of the Town Code of Ordinances. The conduct for such hearing shall be as prescribed in Chapter 2, Article III, Division 2 of the Town Code of Ordinances. In addition to any other enforcement authority provided by law, the special magistrate may authorize suspension or revocation of a vacation rental permit upon a finding of one or more of the criteria set forth in section 7(b)(1)—(5). The special magistrate's findings and order shall constitute the final administrative action of the town for purposes of judicial review under state law.
 - (2) *Subsequent violations.* Upon determination by the town that a vacation rental property owner and/or permit-holder has committed a second or subsequent violation of the provisions of this article, the town may immediately suspend or revoke the vacation rental permit at issue. The town's immediate suspension or revocation of a vacation rental permit as provided herein shall be based upon a finding of one or more of the criteria set forth in section 7(b)(1)—(5).
 - (3) *Enforcement; abatement.* If vacation rental property owner and/or permit-holder fails to seek timely appellate review of an order of the special magistrate under this subsection and fails to comply timely with such order, the town may pursue any and all enforcement procedures necessary, including abatement of the violation. Any costs for enforcement or abatement action shall be placed as a lien against the owner/applicant's real and personal property.
 - (4) *Fees or taxes.* No fees or taxes shall be refunded if a vacation rental permit is suspended, revoked, or cancelled pursuant to this section.
 - (5) *Additional remedies.* Nothing contained herein shall prevent the town from seeking all other available remedies which may include, but not be limited to, injunctive relief, liens and other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies.