



TOWN OF HIGHLAND BEACH

AGENDA MEMORANDUM

MEETING TYPE: Town Commission

MEETING DATE July 15, 2025

SUBMITTED BY: Ingrid Allen, Town Planner, Building Department

SUBJECT: Discussion on permitted landscaping in the public right-of-way

SUMMARY:

In 2021, the Town Commission adopted Ordinance No. 2021-018 which allowed for certain improvements including landscaping as well as protection of swales located in the public right-of-way (see attached Ordinance). In addition, the Commission also adopted Resolution No. 2021-041 which requires Commission approval for proposed improvements located within the State Road A1A right-of-way including the installation of trees in new locations; however, upon completion of the Florida Department of Transportation's (FDOT) Resurfacing, Restoration, and Rehabilitation Project ("RRR" Project) the Resolution shall automatically be repealed without further action by the Town Commission. The Town Code of Ordinances ("Town Code") provides the following regulations pertaining to landscaping within in the public right-of-way.

Section 12-12. - Construction in the public right-of-way. *No person or entity shall construct in the public right-of-way including swales without first obtaining, prior to commencement of any work, a right-of-way permit from the town for such activity if required by section 25-1.*

Section 25-1. - Obstruction of streets, sidewalks, right-of-way—prohibited. *It shall be unlawful to construct improvements or install trees in new locations within the public right-of-way including swales, as defined in section 25-14, without first obtaining a right-of-way permit (right-of-way permit fee shall be waived) from the building department unless waived or otherwise determined as not required by the town's public works director (with the exception of telecommunication facilities which are governed by chapter 32 of this Code). For work performed within the State Road A1A right-of-way, the permit required by this section is in addition to any permit that is required by the Florida Department of Transportation (FDOT), and the town's issuance of a right-of-way permit shall neither impair FDOT's regulatory authority nor otherwise impact any conditions or requirements that may be imposed by FDOT. The following improvements are permitted in the public right-of-way, except as provided in section 17-2(3), and do not require a right-of-way building department permit:*

(1) Underground sprinkler systems with flush or pop-up heads.

(2) Mailboxes.

(3) Ground cover as defined in section 28-2.

(4) Replacement of existing landscaping including, but not limited to, trees, shrubs, or plants greater than twenty-four (24) inches in height so long as such landscaping is replaced in the same location. Existing landscaping located within a swale shall not be replaced.

Section 28-2. – Definitions

Ground cover: Plants, other than turf grass, normally reaching an average maximum height of not more than twenty-four (24) inches at maturity.

Section 28-7. – Site design standards.

(a) Creative site development concepts for water conservation: Creative site development concepts shall be used in order to promote water conservation. Water requirements may be reduced by providing for:

(6) Site development that retains stormwater runoff on site. Swales within the right-of-way should not be altered or modified except to remove existing trees, shrubs, or plants.

Section 28-10. - Maintenance standards for cultivated landscape areas.

(c) If the plant, tree, or other landscaping is located in the public right-of-way and the plant, tree, or landscaping dies or is severely damaged or diseased, the adjacent property owner shall be required to replace the plant, tree, or other landscaping.

Section 30-68. - Supplemental district regulations.

(e)(1)b. When installed on the west side of SR A1A, a fence, wall, or hedge shall be located at least two and one-half (2½) feet from the westerly portion of the pedestrian/bicycle path, either side.

It is worth noting that Sections 30-23 and 30-40(p) of the Town Code allow for the appeal of regulations governing Town rights-of-way to the Board of Adjustment and Appeals.

Given the RRR project is near completion, staff reached out to FDOT to confirm the protocol for processing proposed landscaping improvements in their right-of-way. FDOT advised staff that the current process, whereby any landscape improvements in FDOT's right-of-way along State Road A1A requires a FDOT landscape permit and an amendment to FDOT's Landscape Inclusive Memorandum of Agreement ("Agreement"), will remain. *Note that on July 20, 2017, FDOT and the Town of Highland Beach entered into the Agreement for the purpose of maintaining landscape improvements on State Road A1A.*

In addition, FDOT advised staff that no landscaping, except for sod, will be permitted within 2 feet 8 inches from edge of payment (see Attachment No. 1). Therefore, any previous landscaping located within this area cannot be replaced. According to FDOT, hedges directly against the shoulder prevent full usage of the shoulder width and are maintenance issues as are hedges abutting the pedestrian path.

ATTACHMENTS:

Town Ordinance No. 2021-18.

Town Resolution No. 2021-041

Attachment No. 1 – FDOT Detail

RECOMMENDATION:

At the discretion of the Town Commission.