

EXHIBIT 1

ORDINANCE NO. 2024 -

1 AN ORDINANCE OF THE MAYOR AND CITY COMMISSION
2 OF THE CITY OF HALLANDALE BEACH, FLORIDA,
3 AMENDING CHAPTER 25 STREETS, SIDEWALKS, AND
4 OTHER PUBLIC WAYS OF THE CODE OF ORDINANCES,
5 SECTION 25-2 VEGETATION, WASTE MATERIALS AND
6 OBJECTS IN RIGHTS-OF-WAY ADJACENT TO PRIVATE
7 PROPERTY; PROVIDING FOR CONFLICTS; PROVIDING
8 FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE
9 DATE.
10

11 WHEREAS, the Department of Sustainable Development recommends an
12 amendment to Section 25-2 Vegetation, Waste Materials and Objects In Rights-Of-Way
13 Adjacent To Private Property of the City of Hallandale Beach Code of Ordinances, and pursuant
14 to Article V, Division I, Section 5.01 of the Code, an ordinance is required to amend an existing
15 ordinance; and
16

17 WHEREAS, current regulations allow property owners adjacent to unpaved
18 public rights-of-way to plant or install landscape such as shrubbery, hedges, and trees
19 within those unpaved public rights-of-way, subject to restrictions ensuring safe
20 pedestrian and vehicular circulation and preventing installation of species of trees
21 injurious to the public or creating a possible nuisance, safety hazard or damage; and

22 WHEREAS, should the City or another governing agency operating within the
23 scope of its easement require that an installed tree be removed, code requires the
24 abutting property owner to remove the tree; and

25 WHEREAS, the proposed code change will accommodate continued efforts to enhance
26 and revitalize the City of Hallandale Beach consistent with the City's Comprehensive Plan and
27 help to promote predictability in code requirements for property owners; and

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WHEREAS, Staff recommends the Mayor and City Commission find it in the public interest to amend Section 25-2 to require adjacent property owners to obtain permits before either planting, installing or removing landscaping on City rights of way.

NOW, THEREFORE, BE IT ORDAINED BY MAYOR AND THE CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA:

SECTION 1. Amendment. Section 25-2 Vegetation, Waste Materials and Objects In Rights-Of-Way Adjacent To Private Property of the City of Hallandale Beach Code of Ordinances shall be amended as follows:

CHAPTER 25 STREETS, SIDEWALKS AND OTHER PUBLIC WAYS
ARTICLE I. IN GENERAL

Sec. 25-2. Vegetation, waste materials and objects in rights-of-way adjacent to private property.

(a) *Maintaining of vegetation by owner of abutting property; definitions.*

- (1) All owners, lessees or other persons in charge of property within the city are required to maintain complete vegetative coverage of an approved grass species or other ground cover plantings approved by the city manager on the unpaved public right-of-way abutting their property. This maintenance responsibility includes the maintenance of grass, trees, shrubs, hedges, and/or any other approved landscape plantings; the replacement of dead plantings or grass; and the maintenance of the swale grading, including the filling of holes such as land-crab or snake holes. Grass must not exceed a height of six inches.
- (2) Landscaping located on private property shall not obstruct or hinder pedestrian or vehicular traffic by encroaching on or over public sidewalks, alleys, streets or other public ways.
- (3) For the purposes of this subsection and subsections (b)—(f) of this section, the term "property owner" means the persons shown on the county real estate tax records as the owner of the property, and the term "public right-of-way" means the paved and unpaved area of a highway, roadway, street or alley, or other such strip of land, reserved for public use, whether established by prescription, easement, dedication, gift, purchase, eminent domain or any other legal means.

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- 64 (b) *Removal of waste material by owners of abutting property.* All property owners within the
65 city are required to remove all waste material, junk or other debris from the public right-
66 of-way abutting their property. If after the passage of 24 hours following notification of a
67 violation, waste material, junk or other debris has not been removed, the city may remove
68 such materials and charge and collect from the property owner its costs incurred.
- 69 (c) *Placement of shrubbery, signs, tree trimmings by owner of abutting property.* It is
70 prohibited to have signs, tree trimmings, refuse and all other articles or materials within
71 the public right-of-way.
- 72 (d) *Maintenance of driveway and other entrances by owner of abutting property.* It shall be
73 the responsibility of the owner of the property whose driveway or other entrance to his
74 property intersects the public right-of-way to maintain the driveway or other entrance,
75 including, without limitation, that portion which is on the public right-of-way.
- 76 (e) *Exclusions.* The prohibitions contained in subsections 25-2(a)—(d) of this section shall
77 not apply in the following situations:
- 78 (1) Properly packaged trash, waste material, refuse and other articles may be placed
79 on the unpaved public right-of-way no more than 24 hours before the next scheduled
80 pickup.
- 81 (2) Property owners are not required to maintain the paved surface of the public streets.
- 82 (3) Property owners may place mailboxes in the unpaved public right-of-way provided
83 that no such mailbox exceeds 23½ inches in length, 11½ inches in width, or 13½
84 inches in height, and no horizontal cross section of a pedestal supporting a mailbox
85 exceeds one square foot in area.
- 86 (4) Vehicular parking in the public right-of-way shall be governed by other applicable
87 laws, ordinances or regulations; however, in those cases where parking in the right-
88 of-way is permitted, wheel stops may be used.
- 89 (5) The prohibitions against placing or maintaining any object or material in the public
90 right-of-way shall not apply to the city or its authorized agents, nor shall they apply
91 to franchised public utilities operating within the scope of their easements or
92 franchises.
- 93 (6) Subject to the issuance of a landscape permit prior to installation, the following may
94 be placed in the public right of way: Shrubby and hedges may be placed in the
95 public right-of-way no closer than five feet from the roadway in all zoning districts.
96 Vision clearance shall be maintained as required in article IV, division 8 of chapter
97 32.
- 98 a. Shrubby and hedges may be placed in the public right-of-way no closer
99 than five feet from the roadway in all zoning districts. Vision clearance shall
100 be maintained as required in Article IV, Division 8 of Chapter 32.
- 101 b. Trees may be placed in the public right-of-way, provided they are not on
102 the list of prohibited species of trees that are injurious to the public and
103 determined to create a possible nuisance, safety hazard or damage to
104 public property as maintained by the City Manager or designee. Vision

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105 clearance shall be maintained as required in Article IV, Division 8 of Chapter
106 32.

107 ~~(7) The city manager shall maintain a list of prohibited species of trees which are~~
108 ~~injurious to the public and determined to create a possible nuisance, safety hazard~~
109 ~~or damage to public property. Trees not on that list may be placed in the public right-~~
110 ~~of-way. Vision clearance shall be maintained as required in article IV, division 8 of~~
111 ~~chapter 32.~~

112 ~~(8)~~ (7) Sprinkler systems may be placed in the public right-of-way no closer than ten
113 feet from the roadway.

114 ~~(9)~~ (8) Dome-shaped decorative markers, also known as button markers, may be
115 placed in the public right-of-way, provided that such markers have rounded surfaces
116 and no straight edges and are separated by a minimum of two feet.

117 ~~(10)~~ (9) Columns, light posts or planters may be placed in the public right-of-way in
118 single-family zoning districts, provided that such objects are no closer than ten feet
119 from the roadway and provided that such items shall not be placed between a public
120 sidewalk and roadway.

121 ~~(11)~~ (10) Items which are permitted to encroach by this section but do not do so in
122 conformity with this section, and were in existence prior to April 15, 1986, may
123 remain, provided they do not violate the vision clearance requirements of section
124 32-384(g) or the prohibition from placing items in the right-of-way between a public
125 sidewalk and the roadway contained in subsection (e)(10) of this section. This
126 subsection shall not be deemed to permit encroachment or installation subsequent
127 to April 15, 1986, of prohibited items, which items shall be deemed illegal and
128 subject to immediate removal.

129 (f) *Risk and responsibility of abutting property owner for shrubbery, hedges, trees, sprinkler*
130 *systems, columns, light posts, planters, and button markers; performance by city;*
131 *assessment of costs against property.*

132 (1) Shrubby, hedges, trees, sprinkler systems, columns, light post, planters and
133 button markers authorized in subsection (e) of this section are placed in the public
134 right-of-way at the risk of the abutting property owner.

135 (2) It shall be the responsibility of the abutting property owner to maintain all such
136 shrubby, hedges, trees, sprinkler systems, columns, light posts, planters, and
137 button markers.

138 (3) If the city or another governmental entity, or a public utility operating within the scope
139 of its easement, determines that any encroaching item, including but not limited to
140 shrubby, hedge, tree, sprinkler system, column, light post, planter, or button
141 marker that was placed in the public right-of-way must be removed or modified, it
142 shall be the duty of the abutting property owner to remove or modify the item and to
143 bear all associated costs, including the costs of replacement if desired. A tree
144 removal permit in compliance with Chapter 29 of the Code of Ordinances shall be
145 obtained prior to the removal of any tree.

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146 (4) If the city directs the abutting property owner to remove or modify, within a
147 prescribed period of time, any encroaching item, including but not limited to any
148 shrubbery, hedge, tree, sprinkler system, column, light post, planter, or button
149 marker placed in the public right-of-way, and the owner fails or refuses to comply
150 with such directive, the city may cause the work to be done and assess the costs as
151 a charge and lien against the property.

152
153 **SECTION 2. Providing for Conflict.** All ordinances or parts of ordinances
154 and all resolutions or parts of resolutions in conflict herewith are hereby repealed, to the
155 extent of the conflict.

156 **SECTION 3. Providing for Severability.** If this ordinance or any part
157 thereof is declared by a court of competent jurisdiction to be invalid, such decision shall not
158 affect the validity of the remainder of the ordinance other than the part declared to be invalid.

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160 **SECTION 4. Effective Date.** This Ordinance shall take effect immediately
161 upon its passage and adoption.

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163 PASSED AND ADOPTED on 1st reading, on _____, 20__.
164 PASSED AND ADOPTED on 2nd reading, on _____, 20__.

165
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168 _____
169 JOY F. COOPER
170 MAYOR

171 ATTEST:
172
173
174 _____
175 JENORGEN GUILLEN
176 CITY CLERK

177
178 APPROVED AS TO LEGAL SUFFICIENCY
179 FORM
180
181
182 _____
183 JENNIFER MERINO
184 CITY ATTORNEY

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