

ORDINANCE NO. 2025-19

AN ORDINANCE OF THE CITY OF MELBOURNE, BREVARD COUNTY, FLORIDA, PROVIDING FOR REVISIONS TO THE SUBDIVISION CODE; MAKING FINDINGS; AMENDING APPENDIX D OF THE CITY CODE, ENTITLED "LAND DEVELOPMENT CODE"; AMENDING CHAPTER 8, SUBDIVISION CODE; AMENDING CHAPTER 9, DESIGN STANDARDS AND BUILDING REGULATIONS; AMENDING ARTICLE XV, PRESERVATION AND LANDSCAPE DESIGN; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE . (FOC2025-0001/ TEXT2025-0009)

WHEREAS, Chapter 177, Part I, Florida Statutes establishes procedures and processes for municipal approval of subdivisions of land; and

WHEREAS, pursuant to the authority of Chapter 177, Part I, Florida Statutes, the City of Melbourne has previously adopted Appendix D, Chapter 8 and Chapter 9 of City Code, referred to as the City Subdivision Code; and

WHEREAS, as part of the 2024 legislative session, the Florida Legislature adopted Senate Bill 812, codified as Chapter 2024-210, Laws of Florida and Section 177.073, Florida Statutes; and

WHEREAS, Section 177.073, Florida Statutes requires municipalities to create a two-step residential subdivision application, review, and approval process to expedite the issuance of building permits for units within the proposed residential subdivision upon approval of the preliminary plat; and

WHEREAS, Section 177.073, Florida Statutes does not address how issuance of building permits for residential units within a proposed residential subdivision project after preliminary plat approval, but prior to final plat approval, impacts compliance and conformance with other provisions of Florida law, including but not limited to stormwater management requirements pursuant to Chapter 403, Florida Statutes, and fire prevention requirements pursuant to Chapter

633, Florida Statutes; and

WHEREAS, Chapter 177, Part I, Florida Statutes establishes minimum requirements for subdivision approvals, and does not exclude or preempt additional provisions or regulations by local ordinance, laws, or regulations, as articulated in Section 177.011, Florida Statutes; and

WHEREAS, the City must interpret and apply Section 177.073, Florida Statutes in a manner compatible and consistent with other federal and state law requirements; and

WHEREAS, pursuant to the authority recognized in Section 177.011, Florida Statutes, the City Council determines that it must adopt additional regulations regarding the residential subdivision approval process set forth in Section 177.073, Florida Statutes that do not conflict with the requirements therein, and are consistent with other federal and state law requirements; and

WHEREAS, the City Council finds that the additional regulations set forth in this ordinance are not expressly preempted by state law; and

WHEREAS, the City Council also finds that revisions and updates to the definitions, submittal requirements, and development standards for the existing procedures of the City Subdivision Code is in the best interest of the City; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, reviewed this ordinance at its meeting on March 6, 2025, conducted a public hearing with regard to this ordinance, and found same to be consistent with the City of Melbourne Comprehensive Plan; and

WHEREAS, the City Council hereby adopts the findings of the Planning and Zoning Board as its own and finds this ordinance to be in the promotion of the public health, safety, welfare, morals, public order and aesthetics of the community and the region.

BE IT ENACTED BY THE CITY OF MELBOURNE, FLORIDA:

SECTION 1. That the foregoing recitals are hereby incorporated herein as findings supporting adoption of this ordinance.

SECTION 2. That Appendix D of the City Code of Melbourne, Florida, is hereby amended to read as follows:

APPENDIX D. LAND DEVELOPMENT CODE

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CHAPTER 8. SUBDIVISION CODE.

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Sec. 8.6. Required improvements.

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(h) *Special buffers for residential subdivisions.* Where a residential subdivision borders on or contains a collector or an arterial street, ~~an opaque buffer screen of decorative masonry of a landscaped berm with plant materials shall be required in the design. Such buffers shall be provided via an easement in favor of the homeowners' or property owners' association on the planed lots of within a tract to be owned and maintained by the homeowners' or property owners' association. The buffer easement width shall be a minimum of five feet wide and may contain a wall, fence or landscaped area and/or berm. When an easement is provided, the area of the easement shall be considered a side or rear yard where applicable. such buffer standards shall be in accordance with appendix D, chapter 9, article XV, section 9.273.~~

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CHAPTER 9. DESIGN STANDARDS AND BUILDING REGULATIONS.

ARTICLE I. SCENIC CORRIDORS

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Sec. 9.02. Design standards for scenic corridors.

~~(a) *Landscaping.* Landscaping, in addition to the minimum requirements of appendix D, Chapter 9, article XV, City Code, shall be provided on al parcels of land subject to this article. The purpose of the upgraded landscaping requirements along scenic corridors is to improve appearance and diminish the effect of an intense urban setting created by concrete, asphalt. Metals, and glass.~~

- (1) ~~The owner/developer of a parcel of land subject to this article shall plant one tree in addition to the requirements of appendix D, chapter 9, article XV, City Code, for~~

~~each 60 lineal feet of boundary of the parcel of land subject to this article. "Boundary" as used in the foregoing sentence shall refer to the parcel of land boundary located parallel and closest to the edge of the right-of-way of the scenic corridor.~~

- ~~(2) The one tree per 60-foot requirement shall be satisfied prior to the issuance of a certificate of occupancy on a permitted building. After planting of said trees, the trees shall be continuously maintained in a healthy living condition and a condition permitting growth to maturity.~~
- ~~(3) The additional trees shall be planted along the perimeter landscaping area of the parcel of land abutting the scenic corridor right-of-way.~~
- ~~(4) The trees shall be of a species as set forth in appendix D, section 9.272(c)(2)(a) and (b), City Code, excluding pine. Tree plantings shall be in accordance with all the landscaping standards established in appendix D, chapter 9, article XV, City Code. At the time of planting, trees shall have a minimum diameter of two inches, measured four feet above grade, and a minimum height of ten feet.~~

(ba) *Signs.* Signs meeting the standards below shall be required for any ground signs proposed along any scenic corridor right-of-way frontage. Except as provided in appendix D, chapter 11, section 11.20, such ground signs shall meet the following standards:

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- (3) Signs shall also be landscaped ~~with unique landscape treatment, which may include but not limited to flowers, shrubs, bushes, and other plantings.~~ in accordance with appendix D, chapter 9, article XV, section 9.273.
- (4) All other standards of appendix D, chapter 11, City of this Code, shall apply including design, structural requirements and maintenance.

(eb) *Conflict.* Should standards set in this section conflict with other sections of ~~the City~~ this Code, the more restrictive standards shall apply.

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ARTICLE II. STANDARDS FOR SOLID WASTE DISPOSAL AND RECYCLING RECEPT ACLES

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Sec. 9.22. Standards for solid waste disposal receptacles and solid waste recycling receptacles.

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(g) In addition to the screening requirements, receptacle pads must be effectively buffered along the perimeter of the screen ~~by planting a continuous hedge. The continuous hedge shall immediately about the exterior of the screen required above, be located along the rear and~~

~~both sides, and shall meet the landscaping requirements of chapter 9 of this land development code. This shall not be required for those receptacles located at the rear of a property where other buffering blocks the screened pad from view from public rights-of-way and/or adjoining properties. in accordance with appendix D, chapter 9, article XV, section 9.273.~~

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ARTICLE III. STANDARDS FOR WALLS AND FENCES

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Sec. 9.44.1. Visual screens required.

(a) *Formal site plan developments.* Multifamily, nonresidential, and mixed use developments, subject to formal site plan approval, shall provide a visual screen within their yard setbacks abutting residential uses and zoning districts as provided below, along with landscaping in accordance with appendix D, chapter 9, article XV, section 9.273.

- (1) The visual screen area Aabutting single-family residential lots: shall be a minimum of 50 feet wide, unless otherwise regulated under appendix B, article V, section 1(B) along with a visual screen which shall be a minimum of six-foot tall, opaque, constructed of concrete or masonry wall.
 - a. ~~The visual screen shall be a minimum six-foot height opaque masonry wall; and~~
 - b. ~~A landscaped buffer area no less than 50 linear feet wide shall be provided adjacent to the established single-family residential lots (For setbacks, see appendix B, article IV, section 1(B) multi-story developments).~~
- (2) The visual screen area Aabutting multi-family residential development and other residential uses: shall be no less than the minimum required setback for the adjacent zoning/use, unless otherwise regulated under appendix B, article IV, section 1(B) multi-story developments, and appendix B, article V, section 2(D), tables 2A and 2B, as applicable. In addition, the visual screen shall be opaque, a minimum six-foot tall, and shall be constructed of a termite-resistant wood, vinyl, brick, concrete or masonry.
 - a. ~~The visual screen shall be opaque, a minimum six-foot height, and shall be a termite-resistant wood, vinyl, brick, concrete or masonry fence; and~~
 - b. ~~For setbacks, see appendix B, article IV, section 1(B) multi-story developments, and appendix B, article V, section 2(D), tables 2A and 2B, as applicable.~~

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(b) *Developments not classified as "formal."* Multifamily, nonresidential, and mixed-use developments that are not subject to formal site plan approval shall provide a visual screen within their yard setbacks abutting residential uses and zoning districts in accordance with appendix D, chapter 9, article XV, section 9.273.

- (1) The visual screen area Aabutting single-family residential lots: shall be no less than the minimum required setback for the adjacent zoning/use, unless otherwise regulated under appendix B, article IV, section 1(B) multi-story developments, and appendix B, article V, section 2(D), tables 2A and 2B, as applicable. In addition, the visual screen shall be opaque, a minimum six-foot tall, and shall be constructed of a termite-resistant wood, vinyl, brick, concrete or masonry.

(a) ~~The visual screen shall be opaque, minimum six-foot height, and shall be a termite-resistant wood, vinyl, brick, concrete or masonry fence; and~~

(b) ~~For setback see appendix B, article IV, section 1(B) multi-story developments, and appendix B, article V, section 2(D), tables 2A and 2B, as applicable.~~

- (2) The visual screen area Aabutting multi-family residential development, ~~the visual screen~~ must comply with appendix, article IV, section 1(B) multi-story developments, appendix B, article V, section 2(D), tables 2A and 2B, and appendix D, chapter 9, article XV, section 9.273(b)(1)a.3.

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Sec. 9.45. Design standards for fences and walls.

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(g) Any opaque fence or wall located in the front yard of multiple family, commercial, professional or industrial uses shall be landscaped ~~according to the following standards: in accordance with appendix D, chapter 9, article XV, section 9.273.~~

- (1) ~~One shrub or bush shall be planted for each five linear feet of fence or wall and one tree per 50 linear feet of fence or wall. Bushes or shrubs shall be on the exterior side of any opaque fence or wall.~~

- (2) ~~Bushes and shrubs shall be from an acceptable species type as set forth in appendix D, chapter 9, article XV of the City Code.~~

- (3) ~~All other standards of appendix D, chapter 9, article XV of the City Code, including, but not limited to, irrigation, plant standards, planting standards, and tree size standards, shall apply. These standards shall not be construed to require landscaping in addition to the landscape requirements in appendix D, chapter 9, article XV of the City Code, unless such landscaping does not already exist on the exterior.~~

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Sec. 9.72. Land use type and off-street parking ratio requirements.

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(c) *Excess parking provision.* Any parking spaces provided in conjunction with any new site plan, redevelopment or change of use shall meet the minimum number of parking spaces required in section 9.72(a). Those developments where greater than 125 percent of the minimum required parking spaces are provided shall provide an additional landscaped area for each parking space over 125 percent satisfying the standards ~~established in section 9.74(m) and the minimum landscape design standards established in section 9.273, appendix D, City Code in accordance with appendix D, chapter 9, article XV, section 9.273.~~

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Sec. 9.74. Minimum standards for the design of off-street parking areas.

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(i) *Landscaping provisions.* All parking areas shall be provided with landscaped areas at the end of each row and meet the landscape requirements ~~specified in City Code, appendix D, chapter 9, article XV in accordance with appendix D, chapter 9, article XV, section 9.273.~~

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(l) *Parking space size.*

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(2) *Parking dimensions.*

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(e) Landscaping bonus for nine-foot-wide spaces. Also, for each nine-foot space provided, ~~an additional 20 square feet of a~~ landscaped area must be provided ~~within the parking area in accordance with appendix D, chapter 9, article XV, section 9.273.~~

(f) Retrofitting parking spaces. In all cases, a permit to retrofit shall be submitted to code compliance, along with a striping plan and a landscaping plan, ~~to scale, identifying the existing and proposed parking layout. Consideration of Americans with Disabilities Act requirements shall be made and the installation and maintenance of the minimum required landscaping that was approved at the original time of development shall be reviewed in accordance with appendix D, chapter 9, article XV, section 9.273.~~

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(o) *Special parking lot design considerations and restrictions.*

- (1) Whenever an off-street parking area is designed to provide parking of vehicles in six rows or more, interior landscaped curbed areas shall be provided ~~the length of the parking rows to prevent cross traffic flow and traffic hazards. Such planted landscaping between rows shall be not less than eight feet in width measured back of curb to back of curb. Parking rows shall be limited to 300 feet in length. (Also see appendix D, chapter 9, article XV, section 9.273(b)(1)c.5.) in accordance with appendix D, chapter 9, article XV, section 9.273.~~

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SECTION 3. That Appendix D, Article XV of the City Code of Melbourne, Florida, is hereby deleted and replaced with the following:

ARTICLE XV. TREE PRESERVATION AND LANDSCAPE DESIGN

Sec. 9.270. Purpose and intent.

(A) The purpose of this article is to preserve the city's unique character through regulations, which protect the city's natural plant communities and promote sound landscaping practices.

- (1) *Tree requirements.* The purpose of the tree requirements provisions is to establish standards for the planting, preservation, and removal of trees. These standards are intended to provide a comprehensive and consistent, yet flexible framework for tree requirements intended to improve the appearance of the city by encouraging the proliferation of native trees and vegetative cover, as well as relocation or replacement where necessary, and to control and eliminate invasive non-native species. Protection of trees and vegetation is intended to promote carbon dioxide absorption, oxygen production, dust filtration; reduction of noise, wind, and glare; soil stabilization and enrichment; erosion prevention, surface drainage improvement and aquifer recharge; water pollution reduction, wildlife habitat, energy conservation, temperature moderation, the economic enhancement of improved lands; scenic beauty, quality of life, and the health, safety, welfare, and well-being of the city.
- (2) *Buffers.* The purpose of the buffering and visual screen provisions is to establish standards for landscape buffers and visual screening. Certain uses of property when abutting each other may be incompatible and create conflicts that may be reduced or eliminated by buffers and visual screens. These standards are intended to provide a comprehensive and consistent, yet flexible framework for providing adequate buffer areas and visual screening between abutting incompatible uses. These standards are intended to improve the appearance of the city by eliminating

or minimizing potential nuisances such as noise, lighting, unsightly structures, the visibility of outdoor aspects of intensive land uses, and off-street parking and loading areas, as well as assist in soil conservation and the natural control of air and water pollution and ensure the compatibility of different land uses over time.

- (3) *Landscaping.* The purpose of the landscaping provisions is to establish standards for landscaping areas associated with parking, traffic circulation, and other vehicular use. These standards are intended to provide a comprehensive and consistent, yet flexible, framework for landscaping intended to improve the appearance of the city by creating green space where development occurs, enhance soil conservation and the natural control of air, thermal, and water pollution, and ensure the compatibility of different land uses over time.

Sec. 9.271. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein. When inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Abutting means contiguous or next to.

Agency means the city, its officers, boards or committees charged to make administrative and interpretive decisions regarding implementation of the standards of this article.

Barrier means a durable opaque structure or hedge at least three feet high used within the parking lot screening or decorative perimeter landscaping.

Buffer means an area designed and designated for landscaping and screening.

Caliper means measurements on young trees are taken six-inches above the soil. Once a tree's trunk diameter exceeds four-inches, the tree is measured at a height of 12-inches above the soil. All legitimate nurseries and garden centers in the United States use these specific standards to measure tree caliper

Cut means a portion of land surface or area from which earth has been removed by excavation, or the depth below original ground surface to excavated surface; also known as excavation.

Damaged tree means a tree that has been wounded (bark scraped or removed, canopy topped, limbs removed or shattered, roots cut or crushed) to an extent that survival is unlikely.

Diameter at breast height (DBH) means a tree's diameter at breast height is the most common tree measurement made on a tree, by tree professionals, with breast height specifically defined as a point around the trunk at four and one-half feet above grade.

Diameter at breast height-inch (DBH-inch) means the measurement in determining a tree trunk width at four and one-half feet. Also used in calculating the tree removal fees as adopted by city council resolution from time to time.

Development means the term as set forth in F.S. § 380.04.

Drip line means the vertical line running from the outermost horizontal circumference of the tree branches extending to the ground.

Drought tolerant means a plant species that will survive on natural rainfall without supplemental irrigation after establishment.

Establishment period means the time between planting and new root growth. During the establishment period, regular supplemental watering to the root zone is required.

Encroachment means any protrusion of a vehicle outside a parking space, display area or accessway into a landscape area, sidewalk and any other public access.

Existing grade means the vertical location of the existing ground surface prior to cutting or filling.

Finished grade means the final grade or elevation of the ground surface forming the proposed design.

Florida-friendly landscaping means use of low-maintenance native plants and environmentally-sustainable landscaping practices that help to preserve Florida's natural resources and protect the environment.

Grading means altering surfaces to specified elevation, dimensions, and/or slopes; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

Grand tree means a tree and its root system within the cypress (taxodium spp.), oak (quercus spp.), and pine (pinus spp.) species which has a minimum thirty-inch trunk diameter at DBH. In the case of multi-stemmed trees where there is a union of wood above grade, the DBH shall be measured at each stem and added together to reach a minimum of a 45-inch diameter.

Groundcover means low growing plants, other than turf grass, normally reaching an average maximum height of not more than 24 inches at maturity, planted in such a manner as to form a continuous cover over the ground.

Hedge means a line of shrubs planted and maintained so as to form a continuous, unbroken visual screen, which can minimize light pollution from vehicular headlights. Also, a row of shrubs or small trees planted close together in such a manner as to form a boundary or barrier.

Height, tree means the measurement from the base of a woody tree at grade to the top of the tree. For palms it is measured as bare trunk height (BTH) which is from grade to the base of the newest emerging palm front spear.

Indigenous means any species of plant native to the central coastal area of Florida (see also native vegetation).

Land alteration permit means the permit administered by the engineering department to allow for lawful pre-construction activities to regulate erosion and sedimentation and/or tree removal. A land alteration permit is also administered post construction for any tree removal outside of development activities on non-residential sites.

Landscaped area means the area designated on any site upon which landscaping material may be placed, including stormwater retention areas.

Landscaping means any of the following or a combination of living plant materials, such as but not limited to, grass, ground covers, shrubs, vines, hedges and trees. Landscaping may include, for accent purposes, nonliving durable material such as, but not limited to, rocks, mulch, pebbles, decorative walls or fences, but excluding paving.

Monoculture means the growth or population dominated by a single crop, plant, or organism.

Natural ground surface means the ground surface in its original state before any grading, excavation or filling (see also definition of existing grade).

Native tree means any individual tree listed as a native species shown on “native list” of the list of approved tree species, as identified herein. Damaged trees do not qualify as native trees for the purposes of planting or preservation.

Native tree replacement fund means a fund established to provide a funding source for the purpose of planting trees on public or government-owned properties.

Native vegetation means any plant species with a geographic distribution indigenous to East Central Florida.

Non-indigenous means any species of plant not native to the central east coast of Florida.

Non-native (noxious) invasive species means any non-indigenous species that crowds out or takes over native species habitats and is prohibited from planting.

Open space, usable means the term as defined in appendix B for R-1B, and PUD zoning.

Perimeter landscape strip means the planted space within the subject property and abutting any right-of-way or adjacent property. The term includes parking lot screening and decorative perimeter landscaping.

Person means an individual, partnership, corporation, association or other legal entity, and shall include the plural, as well as the singular.

Planted tree means a tree that has been nursery grown for resale or otherwise transplanted.

Preserved tree means a tree preserved on-site that has been barricaded, or is located one hundred feet or more from the farthest point of development, and that could count towards a development's minimum tree requirement.

Prohibited tree means a tree of undesirable or exotic species that disrupts natural habitats or is otherwise destructive. Trees listed as category I or II invasive species on the most recent edition of the Florida Exotic Pest Plant Council's Invasive Plant List shall be prohibited. Trees listed as category I invasive species shall be removed during site preparation.

Rain sensor device means a low voltage electrical component placed in the circuitry of an automatic lawn irrigation system, which is designed to turn off a sprinkler controller when sufficient rain meets the needs of the landscaping.

Re-growth control means any measure to insure non-native invasive plant species are controlled.

Removal, tree means to remove, removing, or actual the displacement or effective displacement through damaging.

Shrub means a self-supporting non-deciduous species of plants reasonably capable of growing and surviving in the east central coastal area or climatological areas of the city, which shall be a minimum of two feet in height immediately upon planting.

Site means that parcel of land for which any permit from the city is sought.

Sight triangle or visibility triangle means a "visibility triangle" refers to a triangular area that defines a zone necessary for the clear view by the driver of a motor vehicle or a bicyclist of oncoming cross-street motor vehicle, bicycle or pedestrian traffic. This triangular area can be located at street intersections, alley intersections, and/or public access driveways.

Specialized vehicular use areas means areas used for new or used motor vehicles, equipment, boats, local and inter-urban passenger bus terminals and service facilities, and motor freight terminals and loading docks. The term does not include areas set aside for access, employee parking, or areas open to public parking.

Topping, tree means also known as "stubbing," "heading," "heading-back," "stubbing off," "tipping," "hat racking," "topping-off," "dehorning," "lopping," "round over," "cut-over", "lollipopping;" trimming of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. This practice is strictly prohibited.

Tree means a woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground, which normally grows, or is capable of growing, in the east central coastal or climatological area of Florida to an overall height of a minimum of 15 feet.

Vegetative practices means measures employed for the stabilization of erosive or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, sprigging or planting producing long-term vegetative cover;
- (2) Short-term seeding, producing temporary vegetative cover;
- (3) Sodding, covering areas with a turf of perennial sod forming grass; or
- (4) Mulch materials within planting beds.

Viable means the term "viable," as used in this chapter, shall refer to a tree, or plant material which is capable of sustaining its own life processes for its natural life span.

Visual Screen means the visual screen includes an opaque, minimum six-foot tall structure made of termite-resistant wood, vinyl, brick, concrete or masonry, along with a buffer.

Yard means an open space on the same lot with a principal building which is unoccupied and obstructed by buildings.

Sec. 9.272. Tree protection and removal permits.

(a) Generally.

- (1) No person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging any tree located on any property within the city without first obtaining a permit, unless otherwise provided herein in subsection (b) of this section. Trees may be trimmed up to 20 percent of their canopy without obtaining a land alteration permit.
- (2) No person shall trim, remove or alter vegetation in a designated occupied scrub jay and gopher tortoise habitat area without obtaining approval from the United States Fish and Wildlife Service, except that non-indigenous, non-native, noxious species may be individually moved with the approval of the engineering department.
- (3) Land alteration permits authorized by this section, may be obtained by making application to the engineering department on a form supplied by the city, indicating the size and tree type and other information as may be required, by the engineering department. A separate application shall be filed for each site upon which tree removal is requested.

(b) Exceptions. The following types of trees shall be exempt from the provisions of this section and this chapter and no permit or fees shall be required for the removal, cutting down, or destruction of these trees or other trees identified as exempt by the engineering department:

- (1) Prohibited trees:

Table 1: Prohibited Trees	
<u>Scientific Name</u>	<u>Common Name</u>
<u><i>Bischofia javanica</i></u>	<u>Bishopwood, bischofia</u>
<u><i>Casuarina equisetifolia</i></u>	<u>Australian pine</u>
<u><i>Capphora officinarum</i></u>	<u>Camphor tree</u>
<u><i>Cupaniopsis anacardioides</i></u>	<u>Carrotwood tree</u>
<u><i>Enterolobium cyclocarpum</i></u>	<u>Ear tree</u>
<u><i>Eucalyptus spp.</i></u>	<u>All species, except eucalyptus cinerea</u>
<u><i>Melia azedarach</i></u>	<u>Chinaberry</u>
<u><i>Melaleuca leucadendra</i></u>	<u>Punk tree</u>
<u><i>Melaleuca quinquenervia</i></u>	<u>Cajaput or paperbark</u>
<u><i>Metopium toxiferum</i></u>	<u>Poison wood</u>
<u><i>Rhodomyrtus tomentosa</i></u>	<u>Downy rose myrtle</u>
<u><i>Ricinus communis</i></u>	<u>Castor bean</u>
<u><i>Schinus terebinthifolia</i></u>	<u>Brazilian pepper</u>
<u><i>Triadica sebifera</i></u>	<u>Chinese tallow</u>
<u>Any tree listed as a category I or II on the most recent edition of the Florida Exotic Pest Plant Council's Invasive Plant list.</u>	

- (2) Trees located in state-licensed and governmental plant or tree nurseries or botanical gardens in which the trees are planted and growing for the sale or intended sale to the general public in the ordinary course of business or for some public purpose and which are sold.
- (3) Trees which are required to be removed by law.
- (4) Trees which, due to natural circumstances, are no longer viable, are in danger of falling, are too close to existing structures so as to endanger such structures, interfere with utility services, create unsafe vision clearance or constitute a safety hazard.
- (5) Trees located on properties with existing one-, two- and three-family dwellings.

(6) In the event of an emergency such as the approach and imminent landing of a hurricane, windstorms, flood, fire, or other disasters, the city manager or his/her designee retains the authority to temporarily waive the requirements of this section.

(c) *Application types and fees for tree removal on new development.* The following must be submitted to the city through the city's permitting process, pursuant to the city's adopted policies and procedures for engineering construction plan review or the building department residential permit review.

(1) Any person proposing tree removal in conjunction with any construction on, or development of real property on non-residential and/or multi-family sites of less than one-acre in size, or any individual one-, two- and three-family residential dwelling on any size lot, shall submit a sketch or rendering, drawn to scale and prepared by the applicant or property owner, an engineer, architect, landscape architect/designer or other development professional. This sketch shall be submitted at time of engineering construction plan review for non-residential development, or building permit review for individual residential lots and include the following, as applicable:

- a. The types of trees and their location in relation to the proposed structure.
- b. Location of all existing and proposed buildings, walls or fences, improvements or structures.
- c. Existing trees, and the size and type of existing trees, including grand trees, to be removed and/or preserved.
- d. Identification of uses on adjacent properties.
- e. Location of all parking areas and access aisles.
- f. Existing and proposed utility services.
- g. Existing and proposed elevations.
- h. Setbacks, yard requirements and easements.

(2) Any person proposing tree removal in conjunction with any construction or development of real property on sites of individual one-acre or more, excluding any individual one-, two- and three-family residential dwelling lots shall submit legible plan, drawn to scale, and prepared by an engineer, architect, landscape architect/designer or other development professional.

- a. This plan shall be submitted for the entire site at time of engineering construction plan review for development and include the following, as applicable:

1. A legible plan, drawn to scale, and prepared by an engineer, architect, landscape architect/designer or other development professional.
 2. Existing and proposed elevations.
 3. Existing and proposed elevations.
 4. Location of all existing and proposed buildings, walls or fences, or other improvements and structures.
 5. Location of all parking areas and access roads.
 6. Existing and proposed utility services.
 7. Existing and proposed elevations.
 8. Setbacks, yard requirements and location of easements.
- b. A tree survey certified by a landscape architect or other qualified person overlaid directly upon the site plan, and indicating the location of all trees as defined in this article, including grand trees. The survey shall indicate all existing trees with a caliper inch measurement of four inches or greater which are proposed to be removed or relocated, and which are to be preserved at their present location.
1. Tree information shall be summarized in a legend form and shall contain the variety, trunk diameter, height and location, and disposition of all trees shown on the survey.
 2. Groups of trees less than three feet apart may be designated as clumps, with the exception that any tree with a trunk diameter of eight inches or more must be specifically designated.
 3. For sites on which tree removal activity is to occur on less than the entirety of the site, the tree survey may exclude those portions of the site which will not be affected by the tree removal or clearing activity by delineating with a "limits of work line."
- (3) Applications for subdivision plats, planned unit developments and formal site plans of ten acres or more, and all affordable housing projects, may request in writing, to utilize the tree sampling method. The sampling survey and report shall be performed by a certified arborist, a registered landscape architect, surveyor, or similar professional and shall submit the following information for the entire site at time of engineering construction plan review for development:
- a. The sampling areas combined shall be a minimum of ten percent of the entirety of the development site.

- b. A minimum of three sampling areas are required. Sites with varying degrees of tree coverage may require additional sampling areas.
 - 1. Sampling areas will be determined by the community development department. Sampling areas shall be representative of tree coverage categories on the site (e.g., low, medium, high density tree coverage). The site will then be delineated to show the total acreages of each category of tree coverage.
 - 2. Tree sampling surveys and reports must be submitted and approved as part of the first plan submittal.
 - 3. For planned unit developments (PUDs) and subdivision plats, tree sampling surveys and reports must be submitted and approved by staff as part of the PUD preliminary development plan, or preliminary plat review process.
- c. All trees with a caliper inch measurement of four inches or greater and all palms with a clear trunk of six feet or greater shall be included in the sampling for each sampling site.
- d. The sampling survey shall be accompanied by a report. At a minimum, the report shall include:
 - 1. A description of the site characteristics.
 - 2. A description of the method and procedure employed to sample the site.
 - 3. A description of tree species found on site. This section of the report shall include a discussion of any invasive species and grand trees on site, as applicable.
 - 4. A table for each sampling site providing the species and caliper inch measurement of all trees found within the sampling site.
 - 5. A table providing the caliper inch calculations for each tree coverage category. This table shall include the total acreage of each category, the caliper inches per acre, and total caliper inch calculations.
 - 6. A table providing the number and types of trees, and the trees' common names per acre, for each tree coverage category (e.g., pines per acre, oaks per acre).
 - 7. A table providing the number and types of trees for each tree coverage category with total calculations for the entire site.
- e. Sites utilizing tree sampling shall not be exempt from any tree removal fees.

- f. If trees are to be preserved on site, and to be counted as required trees, these areas shall be identified on the sampling survey as such, and separate calculations provided.
 - g. Tree sampling does not authorize removal of any trees on a site. Tree removal shall only be authorized after approval of the tree removal permit. Tree removal permits may only be issued after receiving engineering construction plan approval.
 - h. Nothing contained above shall relieve the city of the ability to ask for further information relating to tree sizes and numbers, or further sampling in coordination with the applicant. In cases where a tree sampling survey is found to be incomplete or incorrect, the city reserves the right to require a full tree survey of the property.
- (4) Any person proposing any tree removal in conjunction with any construction or development of real property on an existing, or previously approved developed site, of any size, excluding any individual one-, two- and three-family residential dwelling lots shall submit a sketch or rendering, drawn to scale and prepared by an engineer, architect, landscape architect/designer or other development professional. This sketch shall be submitted at time of engineering construction plan review for development and include the following, as applicable:
- a. The types of trees and their location in relation to the proposed development.
 - b. Location of all existing and proposed buildings, walls or fences, improvements or structures.
 - c. Existing trees, and the size and type of existing trees, to be removed and/or preserved.
 - d. The previously approved landscape plan.
 - e. Location of all parking areas and access aisles.
 - f. Existing and proposed utility services.
 - g. Existing and proposed elevations.
 - h. Setbacks, yard requirements and easements.
- (d) Criteria for issuance of permits. The tree removal portion of the land alteration permit shall be issued at time of engineering construction plan review for non-residential and/or multi-family residential development, or building permit review for individual one-, two-, three family residential lots, and in accordance with this section when the engineering department has been satisfied that the application meets all of the following criteria:

(1) The subject tree is located within:

- a. The area where any building, roadway, pavement, retention pond or other improvement is proposed to be constructed;
- b. Where a grade change is necessary to proposed development of the site will be made which is too severe for the tree to survive, and cannot be reasonably accommodated with tree wells as determined by the engineering department; and
- c. Such proposed improvements or grade change cannot be relocated upon the site so as to further maximize the preservation of the existing trees upon the site while not unreasonably restricting the permitted use of the property.
- d. As a condition to granting approval of the tree removal portion of the land alteration permit under this section, the applicant may be required, where practical, to relocate those trees which would otherwise be destroyed, to another location upon the site.

(2) It is in the welfare of the general public that the tree be removed for a reason other than those set forth above.

(e) Procedure for issuance of a land alteration permit.

(1) Upon receipt of a completed application containing all the information as required by this article, the engineering department shall review said application. The review procedure shall determine the adequacy and accuracy of content and determine whether the application meets the requirements of this section and whether the applicant has taken all necessary and reasonable steps and considered design alternatives to preserve existing trees and to otherwise enhance the aesthetic appearance of the proposed development by the incorporation of existing trees into the design process.

(2) In the event that no trees exist on the development site, the applicant shall not be required to provide the tree inventory. In lieu of this requirement the applicant shall submit a notarized "no tree affidavit."

(3) Speculative clearing is not permitted. The applicant must have either a building permit or engineering construction plan approval prior to city staff authorizing any clearing or tree removal activities.

(4) Fees. The applicant shall pay to the city all applicable fees for the cost of processing the application, as prescribed from time to time by resolution of the city council.

(5) Following approval of the application, the engineering department shall issue the appropriate permits, and indicate compliance with the provisions herein.

(f) Protection of trees not approved for removal, relocation or destruction.

- (1) Where healthy trees of appropriate location, species, and quality exist on-site prior to development, efforts shall be made to preserve such trees permanently at natural grade in accordance with the following:
- a. Prior to the site clearing phase of development, the trees to be preserved shall be protected by the construction of barriers.
 - b. The barriers shall be constructed of wooden (or equivalent) posts at least two-inches by two-inches, and shall be implanted in the ground deep enough to be stable. The barriers shall be visible, with at least three-feet showing above the ground. The protective posts shall be placed not more than six-feet apart and shall be linked together using lumber; erosion fabric; net or plastic fence material, or snow fencing. Stakes strung with line or flagging shall not be considered a protective barrier.
 - c. Barriers shall be placed at least six-feet from the trunk of any protected palm.
 - d. For tree species other than palms, barriers will be placed at the drip line, except as allowed in an area of encroachment as defined in section 9.272(f)(1)(g) and 9.272(f)(2).
 - e. Where clusters of trees or large areas are to be protected, the area may be designated by barriers placed at the drip line from the outermost trees of the cluster or within the allowable area of encroachment. If the outermost trees are palms, the barrier shall be placed at least six-feet from the trunks of the outermost palm.
 - f. Barriers will remain in place until all construction activity, except landscaping, within the protected areas is complete.
 - g. Trees not protected in the manner defined by this section throughout the construction period will not be considered preserved for purposes of this section, except for trees so located that they are 100 feet or more from the farthest point of development activity.
 - h. No equipment, vehicles, construction materials, temporary structures or buildings, machinery, fill soil, sod, debris, fuel, paint, solvent, oil, thinner, asphalt, cement, grout, or construction chemical of any kind will be placed, allowed to enter, or be stored within the protective barriers established around protected trees or protected areas.
 - i. All anchor straps and wood shall be removed after a minimum of six months and a maximum of one year period as long as the tree has been properly established.
 - j. Temporary sanitation facilities shall not be located within the tree protection areas.

k. No damaging attachment, wires (other than support wires for a tree), signs or permits shall be fastened to any tree protected by this section.

(2) In the event that the preservation techniques referenced in this section are deemed impracticable, trees and tree roots may be encroached upon provided that such encroachment complies with the following conditions:

a. No more than one-half of the radius of the tree canopy is impacted. This encroachment shall occur on no more than one side of the tree.

b. No more than one-third of all tree roots found at the outermost limits of the tree's drip line are encroached upon.

c. The remaining area of the tree's roots shall be protected by barriers at the drip line throughout construction and shall remain in preconstruction condition during and after construction.

d. Paved areas of allowable encroachment shall use techniques that provide for aeration and irrigation of the root system. These techniques include:

1. Substituting gravel or pebbles for typical fill soils; and

2. Using pervious or porous paving materials in the areas of encroachment.

(3) If the development utilizes construction techniques such as pilings or piers, which will not impact tree root systems, the area of allowable encroachment may be exceeded.

(4) In no event shall a damaged tree, a dead tree, a tree not protected in accordance with the provisions of this section, or a tree not included in the list of approved tree species, as identified herein, or section 9.274(a)(5) be counted as a preserved or planted tree for purposes of this section.

(5) On-site inspection for conformance with the provisions of this section shall be conducted by the engineering department inspectors, or authorized city official at any time during a site's development.

(g) Grand trees. No person shall cut down, remove, relocate, or in any way damage a grand tree. These trees shall be protected without regard to their location or the date of final development approval.

(1) The community development director or his/her designee shall exempt a grand tree from the terms and provisions of this section if:

a. The tree is in advanced stages of decline. Staff reserves the right to request a determination from a certified arborist:

- b. The tree is located where a permitted principal structure and/or required improvement is to be located, and the applicant has made every effort to accommodate the grand tree within the design of the structure or improvement. It is the intent of this provision that a permit shall be granted for the removal of a grand tree only after the applicant has demonstrated an effort to design and locate the proposed structure or improvements to prevent the removal a grand tree consistent with the permitted use of the property;
 - c. The tree is causing substantial structural or infrastructural damage, to be determined by a qualified professional and/or arborist. The applicant must demonstrate that alternative remedies such as root barriers or trimming are not feasible.
- (2) Encroachment under a grand tree will be allowed only to the extent provided by this section.
- (3) Grand trees on existing developed properties may be exempt from the per dbh-inch fee removal requirements if the tree is in advanced stages of decline, as determined by a certified arborist, or is causing significant structural damage as determined by a professional engineer, or as approved for removal under subsection (c) above.
- (4) Grand trees that are successfully preserved per sec. 9.272(f) may have their DBH-inches credited toward pending tree removal fees for other trees to be removed on the same site.
- (h) *Penalty for removal.*
- (1) When a tree removal permit is required, as determined by the engineering department, any time that tree is removed without a permit, the code compliance division may cite the owner or developer of the property from which the tree was removed, and the person removing the tree, for a violation of this section 9.272(i)(1), for illegal tree removal.
- Each day that the property is not in compliance with this code provision shall be deemed to be a separate offense and violation hereof, and destruction of a tree without a required permit shall be considered to be an irreversible and irreparable violation of this code. Alleged violators may be prosecuted before the code enforcement board, or as otherwise provided in this code or by law.
- (2) Regardless of any action that may be taken by the code enforcement board, the property owner on whose property the tree was removed shall provide replacement trees of the same type and size as the one destroyed. If it is not possible to replace the tree with those of exact size and variety, the following replacement requirements shall apply:
- a. An “native” list tree must be replaced with an “native” list tree.

- b. A “non-native” list tree may be replaced with an “native” or “non-native” list tree.
 - c. A “palm” list tree may be replaced with an “native”, “non-native” or “palm” list tree.
 - d. Each illegally removed tree must be replaced with a tree or trees of a cumulative trunk diameter equal to or greater than, the sum in inches for each inch of tree removed.
 - e. Replacement trees shall be no less than 12 feet high.
- (3) Until the illegally destroyed or removed trees are replaced on the site, no certificate of occupancy or completion, if applicable, shall be issued by the city.
- (i) *Native tree replacement fund.*
- (1) The community development director is hereby authorized to administer a native tree replacement fund which consists of monies collected as payment in lieu of planting or preserving all or any trees on newly developed or redeveloped properties. The engineering department is hereby authorized and directed to collect the monies for payment of the native tree replacement fund. Thus, an applicant shall pay a sum determined by multiplying the required number of regulation size trees, which they wish to be excused from preserving or planting on site times the native tree replacement fee. Said fee shall be established by resolution of the city council.
- (2) The native replacement tree fund monies shall be used for the acquisition and installation of native trees on public properties throughout the city.
- (3) The owner or developer of a development site, either residential or non-residential, may be eligible to make a per tree cash payment to the city in lieu of the total or partial number of required trees on site prior to final inspection.
- (4) At least one of the following conditions shall exist to request a payment in lieu:
- a. The parcel has a zoning designation of C3 (may request 100% of required trees).
 - b. The parcel is being developed as an individual one-, two- or three-family lot and is less than one-acre in size.
 - c. The parcel has site constraints, either natural or man-made, which makes required tree installation extremely difficult.
- (j) *Hazardous trees and landscaping; removal; effect of non-removal.*

The code compliance division may require the removal of any tree which is or will become unsafe and constitutes a hazard to the safety of the public. It shall be unlawful for any owner to

fail to remove any tree that constitutes a hazard after 48 hours from the time of notice by the code compliance division requesting the removal of such tree, unless within that time, the owner shall have filed with the code compliance division notice of his intention to appeal his decision to the zoning board of adjustment. In the event the tree remains more than 48 hours after notice to remove the tree has been given, the city may remove the tree or have said tree removed on behalf of the owner and charge the cost of removing said tree or having said tree removed to the owner unless the matter is pending on appeal to the zoning board of adjustment or unless the decision by the code compliance division has been reversed by the zoning board of adjustment or refer this matter to the code enforcement board.

In the event the city is compelled to remove the hazardous tree and the owner shall fail to pay to the city within 30 days the cost of providing said removal service; the city shall have and is hereby granted a lien for the costs expended, including a reasonable attorney's fee, against the premises. The lien shall be effective from and after recording a claim of lien in the public records of the county, stating the legal description of the premises, the name of record owner, the amount due and the due date. The city may bring an action in its name to foreclose the lien in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid removal costs and a reasonable attorney's fee without waiving any claim of lien. If such a lien is filed and the city receives all amounts due hereunder, the city shall deliver a release of such a lien in recordable form to owner.

Sec. 9.273. Landscape plans.

The provisions of this section shall apply to all future development and redevelopment of property within the city and shall be the minimum requirements to promote the public health, safety and general welfare by providing for installation and maintenance of certain landscaped areas; to protect the character and stability of residential, business, institutional and industrial areas, and to conserve the value of land and buildings on surrounding properties and neighborhoods.

(a) *Applicability.*

- (1) No application for a building permit for a new, enlarged or altered structure or improvement or use shall be approved unless accompanied by a landscaping plan. Nor shall a permit be issued for the improvements of a parking area to serve as an accessory use to an existing building or buildings until a landscaping plan has been approved in accordance with the provisions herein set forth. Prior to approval, the landscaping plan will be reviewed by staff in order to ensure that all requirements have been met.
- (2) For the purposes of this section, all residential properties consisting of four or more units on a single parcel shall be considered multi-family properties, regardless of ownership, and are subject to the provisions of this section.
- (3) The provisions of this section shall not be construed as prohibiting additional trees, plant material, screening, or buffering beyond that which is required by this section or to prohibit the improvement of landscape buffers existing on the effective date of this section.

(b) Landscaping plan.

- (1) Florida-friendly landscaping design principles shall be employed in all landscape plans, and the use of drought tolerant plant material are highly encouraged. Existing indigenous plant material is encouraged to be retained whenever possible, and credit will be allowed for retention of viable plant material on the site.
- (2) The landscape plan must be approved prior to the issuance of any associated building permit.
- (3) For development requiring site plan approval, the landscape plan must be submitted with, or prior to, the application for preliminary construction approval and must be approved prior to final construction plan approval.
- (4) Landscape plans shall:
 - a. Be drawn to scale at no less than one-inch equals 50 feet; include all dimensions, distances, and acreage;
 - b. Show the square footage and location of the existing and proposed parking spaces, specialized vehicular use areas, access aisles, and driveways;
 - c. Indicate all utility and drainage easements, existing and proposed underground and overhead utility lines, buildings, dumpster locations, ground signs, structures, stormwater retention and detention areas, and similar features;
 - d. Indicate all abutting rights-of-way;
 - e. Identify and describe the location and characteristics of all landscape materials to be installed according to species, variety, quality, quantity, size, and spacing including the square footage and dimensions of all planters and landscape islands; describe the provision of sod;
 - f. Identify all landscape features, including areas of vegetation required to be preserved, in context with the location of existing and proposed buildings and other improvements on the site;
 - g. Indicate in table format the site calculations indicating how all requirements of this section will be met, including: the number, species, and caliper of trees to be planted, preserved, and/or removed.
 - h. Development site characteristics such as the number of parking spaces, and the square footage of interior landscaping;
 - i. Show all measures taken to protect landscape elements and prevent damage from vehicles, including curbing, edging, raised planting surfaces, and other protective measures;

- j. Indicate proposed grades changes if existing vegetation is to be retained within the landscape/parking areas.
- k. Graphically show sight triangles, per section 9.271, Definitions, for all visibility at road intersections and drives. All sight triangles shall be approved by the engineering department.
- l. Provide a separate irrigation plan indicating the type, location and features of the irrigation system for the required landscaping.
- m. All irrigation shall be in compliance with sections 58-160 through 58-169 and sections 58-360 through 58-367 of this code, as applicable.

(c) Landscaping design standards.

(1) Commercial, mixed-use, multifamily, institutional and industrial zoning/uses.

- a. Generally. For all required landscape plans, the total make-up of all trees shall be no less than 50% native, and no more than 25% palms, with the exception of existing palms to be protected and remain in place.
- b. For all commercial, mixed-use, multifamily, institutional and industrial zoning/uses, the first step in developing a code compliant landscape design is to plan for the perimeter of the site; this is without regard to the amount of parking or "interior landscaping" that will subsequently be required. The perimeter requirement is as follows:
 - 1. Perimeter plantings. One "native" list tree, or two "non-native" list trees or no more than 25% of "palm" list trees, or a combination thereof, shall be provided for each 50 linear feet or fraction thereof (rounded-up) of lot perimeter (including drive ways/aisles). All trees can be found in section 9.274(B), list of approved tree species.
 - i. This does not mean that the trees be installed at 50-foot spacing; clustering of trees is allowed, as appropriate, for each tree species used.
 - ii. These trees are to be installed in various locations and spacings along the lot perimeter of the parcel as necessary, to meet the requirements of this section, and to ensure adequate buffering of public rights-of way and adjacent properties while using sound landscape design and horticultural principles.
 - iii. While all preserved C (palm) list trees may be counted toward a development's tree requirements, no more than 25 percent of the total required number of trees can be met using installed C (palm) List trees.

2. Species Diversity. When more than ten trees are required to be planted in accordance with the provisions of this section, a diversity of species shall be planted as provided in Table 2, so as to prevent monocultures, and to avoid noticeable gaps when one tree dies or is damaged. No individual species shall comprise more than 60 percent of the tree species mix. This subsection does not apply to areas of existing vegetation that had been preserved in its natural state. A greater diversity may be used, if desired.

Table 2: Tree Species Diversity	
<i>Required Number of Trees</i>	<i>Minimum Number of Tree Species</i>
<u>11-20</u>	<u>2</u>
<u>21-30</u>	<u>3</u>
<u>31-40</u>	<u>4</u>
<u>41+</u>	<u>5</u>

3. Overhead utilities and tree installation guidelines. When planning for perimeter tree installation, be aware of the presence of overhead power lines and utility poles. In the presence of power lines and utility poles, applicants are encouraged to utilize the following:
- Trees that mature to a height of 20 feet or less should be planted at least 10 feet away from telephone or utility lines.
 - Trees that grow 20 feet to 40 feet tall should be planted 25 feet to 35 feet away from telephone or utility lines.
 - Anything taller than 40 feet should be planted 45 feet to 60 feet away from utility lines.
 - A list of acceptable trees for tree planting near power lines is set forth below in Table 3.

Table 3: Tree Species Recommended for Power Line Planting			
<i>Common Name</i>	<i>Species Name</i>	<i>Mature Height</i>	<i>Tree List*</i>
<u>Bottlebrush</u>	<u>(Callistemon spp.)</u>	<u>10-15'</u>	<u>NN</u>
<u>Crape Myrtle</u>	<u>(Lagerstroemia indica)</u>	<u>10-30'</u>	<u>NN</u>
<u>Dahoon Holly</u>	<u>(Ilex cassine)</u>	<u>20-30'</u>	<u>N</u>

<u>Eagleston Holly</u>	<u>(Ilex X attenuate 'Eagleston')</u>	<u>15-25'</u>	<u>N</u>
<u>Japanese Blueberry</u>	<u>(Elaeocarpus decipiens)</u>	<u>15-20'</u>	<u>NN</u>
<u>Loquat</u>	<u>(Eriobotrya japonica)</u>	<u>15-30'</u>	<u>NN</u>
<u>Pineapple Guava</u>	<u>(Feijoa sellowiana)</u>	<u>10-15'</u>	<u>NN</u>
<u>Southern Wax Myrtle</u>	<u>(Myrica cerifera)</u>	<u>15-20'</u>	<u>N</u>
<u>Sweet Olive</u>	<u>(Osmanthus fragrans)</u>	<u>15-30'</u>	<u>NN</u>
<u>Weeping Yaupon Holly</u>	<u>(Ilex vomitoria 'Pendula')</u>	<u>15-30'</u>	<u>N</u>
<u>* N = Native; NN = Non-native</u>			

c. Landscape buffering adjacent to public rights-of-way.

1. In all zoning districts except C-P, a landscaped area equivalent to 15 feet in width, times the length of the frontage shall be provided between the abutting rights-of-way and the vehicular use or parking lot area.
 - i. This area may vary in width to accommodate plantings but shall not be less than five feet in width.
 - ii. The landscaped area is to be part of the developed private property and shall not include any public property or street right-of-way.
 - iii. A continuous hedge not less than two feet in height or greater than three feet in height shall be planted in this landscape buffer area.
 - iv. This buffer area may include multi-story plantings to create a planting buffer, not just a linear hedge.
2. In the C-P zoning district, the front landscape area may vary in width, but shall be no less than ten feet in width and equivalent to 20 feet in width, times the length of the frontage in the area between the rights-of-way and the vehicular use or parking lot area.
3. That portion of any public right-of-way which abuts property regulated by this subsection must be sodded or provided with other acceptable and permissible vegetative practices by the owner or the applicant up to the back of the curb or edge of the pavement, whichever is applicable.
4. Landscaping ground signs. All ground signs located adjacent to public right-of way, shall also be landscaped with unique landscape

treatment which may include but no be limited to flowers, shrubs, and other plantings.

5. Pre-existing landscapes. Landscaped areas with a depth of ten feet approved prior to May 1, 2003 shall not be considered to be nonconforming.

d. Landscape buffering for adjacent properties:

1. Off-street parking or other vehicular use areas which are not entirely screened from the non-residential abutting property by an intervening building or structure shall be provided with one of the following:
 - i. A landscape buffer which consists of plant material, such as trees and shrubs. The shrubs shall not be less than two feet in height at time of installation, and able to attain a height of three feet, and form a continuous unbroken hedge at maturity. The landscape buffer area shall be no less than five-feet wide; or
 - ii. A buffer area not less than five-feet wide and includes a solid fence or wall, not less than three feet in height is required in accordance with appendix D, chapter 9, article III.
 - iii. In buffer areas with less than five-feet between the property line and the vehicle use area, a solid fence or wall greater than three-feet tall, shall be required in accordance with appendix D, chapter 9, article III.
2. For the protection of residential environs, all multifamily, non-residential, and mixed-use developments that are not subject to formal site plan approval, shall provide a visual screen within their yard setbacks abutting single, two or three-family residential uses and zoning districts. The following shall apply:
 - i. The required landscape buffer width shall use the applicable yard requirements of the adjacent residential property, at the abutting property line; and
 - ii. The buffer area between the adjacent residential property and any pavement shall be seven and one-half feet for side yards, and ten feet for rear yards of the subject property; and
 - iii. A required visual screen per appendix D, chapter 9, article III.
3. For all multifamily, non-residential, and mixed-use developments, subject to formal site plan approval, the applicant shall provide a visual screen within their yard setbacks abutting single, two or three-family residential uses and zoning districts.

- i. The visual screen per appendix D, chapter 9, article III; and
 - ii. A landscaped buffer area no less than 50 linear feet wide shall be provided adjacent to the established single-family residential lots.
 - iii. Within this landscape buffer, 50% of the required stormwater retention may be included, with the remainder consisting of plant material such as trees and shrubs, including existing native, non-noxious, vegetation. Any new shrubs shall not be less than two-feet in height at time of installation, and able to attain a height of three-feet, and form a continuous unbroken hedge at maturity. This area will be considered and designed in coordination with the community development department during the formal site plan approval process.
- e. Landscaping for interior parking areas.
- 1. Off-street parking areas shall have a minimum of 50 square feet of interior landscaping provided for each parking space, excluding those parking spaces abutting the perimeter buffer.
 - 2. Interior landscape areas shall include all the landscaped areas which are not adjacent to a right-of-way, and not adjacent to other property.
 - 3. Landscaping between a building and the parking lot which is not required by another part of the land development regulations may be credited for up to 25 percent of the interior landscaping.
 - 4. Such interior landscape island shall maintain the following standards:
 - i. Each single landscaped island shall contain at least one tree, with the remaining area landscaped with shrubs, ground cover, sod or other landscape treatment. Pavement and sand are not considered approved landscape treatment.
 - ii. For overstory trees the root zone area shall be a minimum of 216 square feet of soil surface area per tree. The islands shall be no less than 12 feet in width, as measured from back of curb.
 - iii. For understory trees the root zone area shall be a minimum of 144 square feet of soil surface area. The island shall be no less than eight feet in width, as measured from back of curb.
 - iv. For palm trees the root zone area shall be a minimum of 90 square feet of soil surface area. The islands shall be no less than five feet in width, as measured from back of curb.

- v. Each separate landscaped area shall be located in such a manner as to divide and break up the expanse of paving and at strategic points to guide traffic flow and direction.
5. All off-street parking lots containing six or more parking spaces (except in the CBOZ) shall comply with the following:
- i. All rows of parking shall have a terminal island placed at each end with a minimum of one tree, and shall be fully planted with shrubs or groundcover. Each island shall be measured from back of curb to back of curb. Larger islands are recommended, especially where overstory trees are provided. Adequate island size is important for tree growth and for prevention of root damage to surrounding pavement.
 - ii. Each terminal island shall extend the entire length of the single or double row of parking spaces bordered by a curbing. A double row shall contain two trees.
 - iii. A minimum of 50 percent of terminal islands shall use overstory trees, and no more than ten percent of terminal island trees shall use palms, unless preserved palms.
 - iv. For overstory trees the root zone area shall be a minimum of 216 square feet of soil surface area per tree. The islands shall be no less than 12 feet in width, as measured from back of curb.
 - v. For understory trees the root zone area shall be a minimum of 144 square feet of soil surface area. The island shall be no less than eight feet in width, as measured from back of curb.
 - vi. For palm trees the root zone area shall be a minimum of 90 square feet of soil surface area. The islands shall be no less than five feet in width, as measured from back of curb.
 - vii. Dimensions, from back of curbing, or square foot of these islands shall be indicated on the plan.
 - viii. All landscaped areas and sidewalks shall be protected from vehicular encroachment by the use of curbing.
- f. Special parking lot landscape considerations.
- 1. Six rows or more of parking. Whenever an off-street parking area is designed to provide parking of vehicles in six rows or more, interior landscaped curbed areas shall be provided the length of the parking rows to prevent cross traffic flow and traffic hazards. Such planted

landscaping between rows shall be not less than eight feet in width measured back of curb to back of curb.

2. Landscaping bonus for nine-foot-wide spaces. Also, for each nine-foot space provided, an additional 20 square feet of additional landscaping must be provided within the parking area.
3. Retrofitting parking spaces. In all cases, a permit to retrofit shall be submitted to the community development department, along with a striping plan and a landscaping plan to scale, and prepared by an engineer, architect, landscape architect/designer or other development professional, identifying the existing and proposed parking layout. Consideration of Americans with Disabilities Act requirements shall be made and the installation and maintenance of the minimum required landscaping that was approved at the original time of development shall be reviewed.
4. Excess parking provision. Developments where greater than 125 percent of the minimum required parking spaces are provided, shall provide an additional landscaped area for each parking space over 125 percent.

g. Additional landscape requirement and considerations.

1. Solid waste receptacles. In addition to the screening requirements as provided in section 9.22, receptacle pads must be effectively buffered along the perimeter of the screen by planting a continuous hedge. The continuous hedge shall immediately abut the exterior of the screen required above, be located along the rear and both sides, and shall meet the landscaping requirements of chapter 9 of this Code. This shall not be required for those receptacles located at the rear of a property where other buffering blocks the screened pad from view from public rights-of-way and/or adjoining properties.
2. Landscaping for fences and walls. Any opaque fence or wall located in the front yard of multiple family, commercial, professional or industrial uses shall be landscaped according to the following standards:
 - i. One shrub shall be planted for each five linear feet of fence or wall and one tree per 50 linear feet of fence or wall. Shrubs shall be on the exterior side of any opaque fence or wall.
 - ii. Shrubs shall be from an acceptable species type as set forth in section 9.274(a)(5).
 - iii. These standards shall not be construed to require landscaping in addition to the landscape requirements per this section.

unless such landscaping does not already exist on the exterior side of the fence or wall facing a street or right-of-way.

3. Special buffers for residential subdivisions. Where a residential subdivision borders on or contains a collector or an arterial street, an opaque buffer screen of decorative masonry or a landscaped berm with plant materials shall be required in the design.

i. Such buffers shall be provided via an easement in favor of the homeowners' or property owners' association on the platted lots or within a tract to be owned and maintained by the homeowners' or property owners' association

ii. The buffer easement/tract width shall be a minimum of ten-feet wide and shall contain at minimum, a six-feet tall masonry wall, or a six-feet tall opaque fence with masonry columns no greater than 36-feet apart; or a berm with hedge material and trees to create a minimum six-foot tall visual buffer. Use of a fence/wall must comply with appendix D, chapter 9, article III. When an easement is provided, the area of the easement shall be considered the side or rear yard, where applicable.

4. Landscaping requirements for specific uses. The following uses, whether permitted by right or through conditional use, have additional landscape requirements to ensure mitigation of any potential adverse impacts on properties and land uses within the immediate vicinity. Consult appendix B, article VI, section 2, for the specific landscape requirements for the following uses:

i. Car wash establishments;

ii. Convenience stores with gas pumps/gas stations;

iii. Day shelter;

iv. Public utility service facilities;

v. Recycling facility;

vi. Service, vehicle;

vii. Service, major vehicle;

viii. Soup kitchen;

ix. Transitional homeless shelter;

x. Vehicle impounding yard;

- xi. Vehicle sales and rentals;
 - xii. Affordable housing (per appendix B, article VI, section 4);
 - xiii. Towers and telecommunications facilities (per appendix D, chapter 9, article VI, section 9.96)
- h. Multi-family common areas.
- 1. In lieu of planting perimeter trees as required by section 9.273(c)(1) (a.)1., 50 percent of those trees can be relocated and installed in the interior of the subdivision for common space plantings. Special attention to the entrance drive should be considered.
 - 2. This perimeter tree allowance does not extend to either the “landscaping for fences and walls” requirement, or the “special buffers for residential subdivisions” requirement in sec. 9.273(c)(1)(g.).”
- (2) Minimum landscaping for newly developed or redeveloped one-, two- and three-family residential lots.
- a. For all one-, two-, three-family residential development regulated by this section, trees must be acquired by preserving or planting trees according to Table 4, below. A list of trees acceptable for the purpose of this section is provided in section 9.274(b), list of approved tree species.
 - b. Residential lots must be either fully sodded or provided with a combination of sod and landscaping using live plant material. Florida-friendly landscaping is strongly encouraged. Landscaped areas shall comply with section 9.274.
 - c. That portion of any public right-of-way which abuts any property regulated by this subsection must be sodded by the owner or the applicant up to the back of the curb or edge of the pavement, whichever is applicable, and maintained by the owner of the property adjacent to the rights-of-way.

Table 4: Trees for One-, Two-, Three- Family Residential Lots

Lot Size	< 2,000 SF	2,001 – 7,499 SF	7,500 > SF
# of Trees*	2 Trees Minimum	3 Trees Minimum	4 Trees Minimum

<p>Required Trees* per Lot</p> <p><u>*See 9.274(B) for Tree Lists</u></p>	<p>1 “Native” List Tree plus 1 “Native” or “Non- native” or “Palm” List Tree</p>	<p>2 “Native” List Trees plus 1 “Native” or “Non- native”, or “Palm” List Tree</p>	<p>Option 1: 2 “Native” List Trees plus 2 “Native” or “Non- native” List Trees - - - - - Or - - - - - Option 2: 2 “Native” List Trees plus 1 “Native” or “Non- native” List Tree plus 1 “Palm” List Tree</p>
<ul style="list-style-type: none"> • <u>Nothing herein prevents the installation of additional trees beyond that which is required.</u> • <u>Existing trees of sufficient size and quality remaining and preserved on-site per section 9.272(f) may count toward tree requirements.</u> 			

Sec. 9.274. Plant materials, standards, and maintenance.

(a) Plant materials.

- (1) The total number of trees, shrubs, or other vegetation required for any development may be, but is not limited to, the species listed in this section.
 - a. Existing trees of sufficient size and quality remaining and preserved on-site per section 9.272(f) may count toward tree requirements.
 - b. Relocated trees shall be managed in such a way to enhance chances for survival including relocating trees during the dormant season, placing in areas of proper soil preparation and drainage, proper pruning and sufficient irrigation.
- (2) All trees must have a minimum diameter of two-inches measured at six-inches above existing grade, have a minimum height of ten-feet at installation and be listed on the list of approved tree species, as identified herein, or section 9.274(a)(5). Trees not on the list of approved trees may be counted for credit at the discretion of the city.
- (3) All palms used to meet tree requirements must have a minimum overall height of ten-feet, and have a minimum of six feet of clear trunk.
 - a. While all preserved native palms may be counted toward a development’s tree requirements, no more than 25 percent of the total required number of

trees can be met using installed native or non-native palms. Preserved, non-native palms also count for 25 percent of the total tree count.

- (4) Shrubs and hedges used for perimeter and buffer landscaping must be a minimum 24 inches in height upon installation, be spaced eighteen inches to 36 inches on center, as determined by plant type, and be capable of reaching at least 36 inches upon maturity.
- (5) For landscaping purposes, trees and shrubs found in the most recent edition of the "Florida-Friendly Landscaping Guide to Plant Selection and Landscape Design", produced by the University of Florida/IFAS may be permitted.
- (6) All plants, except transplanted plants, shall meet or exceed the quality standards for Florida No. 1 as provided by Grades and Standards for Nursery Plants, Parts I and II, most recent edition, State of Florida, Department of Agriculture, Tallahassee.

(b) Plant Species.

<u>Native List - Approved Overstory Tree Species</u>	
<u>American Hophornbeam (Ostrya virginiana)</u>	<u>Red Cedar (Juniperus virginiana)</u>
<u>American Elm (Ulmus americana)</u>	<u>Red Maple (Acer rubrum)</u>
<u>Bald Cypress (Taxodium distichum)</u>	<u>Sand Pine (Pinus clausa)</u>
<u>Cherry Laurel (Prunus caroliniana)</u>	<u>Shumard Oak (Quercus shumardii)</u>
<u>Florida Elm (Ulmus Americana var. floridana)</u>	<u>South Florida Slash Pine (Pinus elliottii var. densa)</u>
<u>Florida Scrub Hickory (Carya floridana)</u>	<u>Southern Magnolia (Magnolia grandiflora)</u>
<u>Green Ash (Fraxinus pennsylvanica)</u>	<u>Southern Red Maple (Acer rubrum)</u>
<u>Gumbo-Limbo (Bursera simaruba)</u>	<u>Southern Red Oak (Quercus falcata)</u>
<u>Jamaican Dogwood (Piscidia piscipula)</u>	<u>Sweetbay Magnolia (Magnolia virginiana)</u>
<u>Laurel Oak (Quercus laurifolia)</u>	<u>Sweetgum (Liquidambar styraciflua)</u>
<u>Live Oak (Quercus virginiana)</u>	<u>Sugarberry or Hackberry (Celtis laevigata)</u>
<u>Loblobby Bay (Gordonia lasianthus)</u>	<u>Sycamore (Platanus occidentalis)</u>
<u>Loblolly Pine (Pinus taeda)</u>	<u>Turkey Oak (Quercus laevis)</u>
<u>Longleaf Pine (Pinus palustris)</u>	<u>Water Oak (Quercus nigra)</u>
<u>Mahogany (Swietenia mahagoni)</u>	

<u>Persimmon (Diospyros virginiana)</u>	<u>Water Hickory (Carya aquatica)</u>
<u>Pigeon Plum (Coccoloba diversifolia)</u>	<u>Water Tupelo (Nyssa aquatica)</u>
<u>Pignut Hickory (Carya glabra)</u>	<u>Winged Elm (Ulmus alata)</u>
<u>Pond Cypress (Taxodium ascendens)</u>	

<u>Native List - Approved Understory Tree Species</u>	
<u>American Holly (Ilex opaca)</u>	<u>Bolly (Guapira discolor)</u>
<u>Baycedar (Suriana maritima)</u>	<u>Bustic Willow (Sideroxylon salicifolium)</u>
<u>Black Mangrove (Avicennia germinans)</u>	<u>Button Bush (Cephalanthus occidentalis)</u>
<u>Buttonwood (Conocarpus erectus)</u>	<u>Red Buckeye (Aesculus pavia)</u>
<u>Chapman Oak (Quercus chapmanii)</u>	<u>Red Mangrove (Rhizophora mangle)</u>
<u>Chinquapin (Castanea pumila)</u>	<u>Red Mulberry (Morus rubra)</u>
<u>Cherry Laurel (Prunus caroliniana)</u>	<u>Rusty Lyonia (Lyonia ferruginea)</u>
<u>Coastal Plain Willow (Salix caroliniana)</u>	<u>Sand Live Oak (Quercus geminata)</u>
<u>Cocoplum (Chrysobalanus icaco)</u>	<u>Satinleaf (Chrysophyllum oliviforme)</u>
<u>Common Pawpaw (Asimina triloba)</u>	<u>Scrub Oak (Quercus inopina)</u>
<u>Dahoon Holly (Ilex cassine)</u>	<u>Sea Grape (Coccoloba uvifera)</u>
<u>Eagleston Holly (Ilex X attenuate 'Eagleston')</u>	<u>Southern Crabapple (Malus angustifolia)</u>
<u>East Palatka Holly (Ilex opaca "East Palatka")</u>	<u>Southern Red Cedar (Juniperus virginiana)</u>
<u>Florida Fiddlewood (Citharexylum fruticosum)</u>	<u>Southern Wax Myrtle (Myrica cerifera)</u>
<u>Florida Willow (Salix floridana)</u>	<u>Spicewood (Calyptranthes pallens)</u>
<u>Geiger Tree (Cordia sebestena)</u>	<u>Stoppers (Eugenia spp.)</u>
<u>Heart Leaved Willow (Salix eriocephala)</u>	<u>Summer Haw (Crataegus flava)</u>
<u>Hercules-Club or Toothache-Tree</u>	<u>Sweet Acacia (Acacia farnesiana)</u>
<u>(Zanthoxylum clava-herculis)</u>	<u>Titi (Cyrilla racemiflora)</u>
<u>Lime Prickly-Ash (Zanthoxylum fagara)</u>	<u>Walter Viburnum (Viburnum obovatum)</u>
<u>Myrtle Oak (Quercus myrtifolia)</u>	<u>Wax Myrtle (Myrica cerifera)</u>

<u>Pop Ash (Fraxinus caroliniana)</u>	<u>White Geiger (Cordia globosa)</u>
<u>Red Bay (Persea borbonia)</u>	<u>White Mangrove (Languncularia racemosa)</u>
	<u>Yaupon Holly (Ilex vomitoria)</u>
	<u>Yaupon Holly (Ilex vomitoria 'Pendula')</u>

<u>Non-native List – Approved Overstory Tree Species</u>	
<u>Black Olive (Bucida buceras)</u>	<u>Royal Poinciana (Delonix regia)</u>
<u>Jacaranda (Jacaranda acutifolia)</u>	<u>Yellow Poinciana (Peltophorum pterocarpum)</u>

<u>Non-native List - Approved Understory Tree Species</u>	
<u>Shady Lady Black Olive (Bucida buceras 'Shady Lady')</u>	<u>Loquat (Eriobotrya japonica)</u>
<u>Bottlebrush (Callistemon spp.)</u>	<u>Pineapple Guava (Feijoa sellowiana)</u>
<u>Chinese “Drake” Elm (Ulmus parvifolia)</u>	<u>Silver Dollar Eucalyptus (Eucalyptus cinerea)</u>
<u>Crape Myrtle (Lagerstroemia indica)</u>	<u>Sweet Olive (Osmanthus fragrans)</u>
<u>Japanese Blueberry (Elaeocarpus decipiens)</u>	<u>Tree of Gold (Tabebuia argentea)</u>
<u>Jerusalem Thorn (Parkinsonia aculeata)</u>	<u>Trumpet Tree (Tabebuia spp.)</u>

<u>Palm List - Approved Palm Species</u>	
<u>Areca Palm (Chrysalidocarpus lutescens)</u>	<u>Fox tail Palm (Wodyetia bifurcate)</u>
<u>Canary Island Date Palm (Phoenix canariensis).</u>	<u>Mexican Fan Palm (Washingtonia robusta)</u>
<u>Chinese Fan Palm (Livistona chinensis)</u>	<u>Queen Palm (Syagrus romanzoffiana)</u>
<u>Christmas Palm (Veitchia merrillii)</u>	<u>Silver Palm (Coccothrinax argentata)</u>
<u>Coconut Palm (Cocos nucifera)</u>	<u>Sylvester Date Palm (Phoenix sylvestris)</u>
<u>Date Palm (Phoenix dactylifera)</u>	

(c) Planting standards.

- (1) All landscaping shall be installed in conformance with the landscape plan approved by the city or the site plan's final approval.
- (2) The property owner shall be responsible for installing all trees in a sound, professional manner and in accordance with accepted good horticultural techniques.
- (3) It shall be unlawful practice for any person, firm or agency to "top" or allow to be "topped", or severely prune, so as to appear stunted, any tree, regardless of development approval date.
 - a. All tree pruning shall be conducted according to the most recent edition of the National Arborist Association standards, which are hereby incorporated by this reference.
 - b. Trees severely damaged by storms or other causes, or certain trees under utility lines or other obstructions where other pruning practices are impractical may be exempted from this section.
- (d) Landscaping maintenance standards and responsibilities.
 - (1) Landscaping shall be maintained in a manner so as to not obstruct the visibility of automobiles at intersections, or at points of ingress and egress to the public right-of-way.
 - (2) All landscaping required under the provisions of this chapter shall be maintained by the owner in a viable, neat and orderly condition for perpetuity.
 - (3) Plantings, fences, walls, berms and irrigation systems required by this section must be maintained in good repair. Landscape and buffer areas must be kept free of weeds, litter, and debris.
 - (4) For properties developed for commercial, multifamily, institutional or industrial land uses each landscaped area shall be provided with an automatic irrigation system equipped with a rain sensor device.
 - a. This requirement may be waived by the community development department where determined it would not be needed or feasible due to the size, shape or location of the area to be irrigated.
 - b. Any residential land use equipped with an automatic irrigation system shall be equipped with a rain sensor device.
 - c. Irrigation system permits shall be obtained prior to installation.
 - (5) Visual clearance at corners, curb cuts, and railroad crossings. Notwithstanding any part of this ordinance or any permit granted, or any variance granted by the zoning

board of adjustment, no type of structure, vehicle, tree, planting, vegetation, sign, fence, or any other type of obstacle or any portion thereof shall be placed or retained in such manner which would create a traffic hazard or would obstruct the vision clearance at corners, curb cuts, or railroad crossings.

- (6) All trees preserved or planted per this section shall remain preserved in perpetuity unless they are lawfully removed, or are dead or severely damaged to cause liability.
- (7) Any tree regulated by this section that dies, sustains major damage, or contracts a disease, such that it's restoration to a sound condition is impractical, must be replaced by a tree of comparable size and type or a combination of trees having an equal number of tree points.
- (8) Any tree regulated by this section and located on an improved site, that is also allowed to be removed per section 9.272, shall have the stump removed or ground down to a point to allow for the installation of a suitable replacement tree.
- (9) All fertilizer applications to any landscape plant, trees or turf must be done consistent with section 50-109 through 50-125 of this Code.
- (10) The management of grass clippings and vegetative debris must be done consistent with section 50-118 of this Code.
- (11) All removal of garden and yard trash, and tree and shrubbery trimmings, must be done consistent with 48-30 of this Code.
- (12) Private landscape and tree contractors performing services shall be responsible for moving all debris generated in the performance of their work.

Sec. 9.275. Invasive non-native species.

Upon submittal of a request to develop or redevelop commercial, multifamily residential (greater than three units), industrial, or institutional zoned properties, all invasive vegetative species (trees, shrubs, vines and ground cover) shall be removed. No permit shall be required to remove such species listed in section 9.272(b)(1). After the issuance of a certificate of occupancy or certificate of completion on other than single, two or three-family lots or parcels, re-growth of invasive vegetation shall be controlled by prohibiting the re-growth of such species in perpetuity.

Sec. 9.276. Appeals; zoning board of adjustment.

Appeals from the decision of the community development department regarding the interpretation of any portion of the provisions of this chapter may be taken by any person aggrieved or by any officer or bureau of the governing body of the city affected thereby, to the zoning board of adjustment. Such appeal shall be taken within a reasonable time not to exceed 60 days or such lesser period as may be provided by the rules of the zoning board of adjustment, by filing with the community development department and with the zoning board of adjustment a notice of appeal specifying the grounds thereof. The community development department shall forthwith transmit to the zoning board of adjustment all papers constituting the record upon which the action appealed from was taken. The

zoning board of adjustment shall fix a reasonable time for hearing of the appeal, give public notice thereof at least 15 days in advance of public hearing as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

Sec. 9.277. Penalty.

Whenever a person is engaged in any tree removal, land-disturbing activity or deficient in landscaping requirements resulting in violation of this chapter, the offender shall be referred to the code enforcement board for disposition. Upon finding a violation, all work may be terminated pending a decision of the code enforcement board.

9.278—9.288. - Reserved.

* * * *

SECTION 4. Severability and Interpretation.

(a) That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional, illegal or otherwise void by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, illegality, or other declaration shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.

(b) That in interpreting this ordinance, underlined words indicate additions to existing text and ~~stricken words~~ indicate deletions from existing text. Asterisks (* * * *) indicate an omission from the ordinance of text, which exists in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and not set forth in this ordinance shall remain unchanged from the language existing prior to adoption of this ordinance.

SECTION 5. That this ordinance shall become effective immediately upon its adoption in accordance with the Charter of the City of Melbourne.

SECTION 6. That this ordinance was passed on first reading at a regular meeting of the City Council on the 25th day of March, 2025, and adopted on the second and final reading at a regular meeting of the City Council on the 8th day of April, 2025.

BY: _____
David Neuman, Vice Mayor

ATTEST: _____
Kevin McKeown, City Clerk

[CITY SEAL]

Ordinance No. 2025-19