



TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE -
SUBJECT TO
REVISION

ORDINANCES, RULES AND STANDARDS COMMITTEE MEETING

AGENDA

TOWN HALL
COUNCIL CHAMBERS - SECOND FLOOR
360 SOUTH COUNTY ROAD

Thursday, October 11, 2018
9:30 a.m.

- I. CALL TO ORDER AND ROLL CALL
Julie Araskog, Committee Chair
Lew Crampton, Committee Member
- II. APPROVAL OF AGENDA
- III. COMMUNICATIONS FROM CITIZENS
- IV. REGULAR AGENDA
 - A. Old Business
 - 1. Further Discussion and Review of Changes to Chapter 66.
 - B. New Business
 - 1. None.
- V. ANY OTHER MATTERS
- VI. ADJOURNMENT

PLEASE TAKE NOTE:

The progress of this meeting may be monitored by visiting the Town's website (www.townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.

Disabled persons who need an accommodation in order to participate in the meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: October 11, 2018

To: Ordinances, Rules & Standards Committee

From: Jay Boodheshwar, Deputy Town Manager

Re: Further Discussion and Review of Proposed Changes to Chapter 66 of the Town Code

Date: October 4, 2018

STAFF RECOMMENDATION

Staff requests direction from the Ordinances, Rules and Standards (ORS) Committee regarding revisions to Chapter 66 of the Town Code.

GENERAL INFORMATION

At the September 13, 2018, Town Council meeting, the ORS Committee was asked to continue its review of previously proposed changes to Chapter 66, with specific focus on regulation of ficus benjamina. For the benefit of current ORS committee members and staff, below is a timeline and recap of Town Council's recent actions, relative to consideration of ordinances related to this chapter of the Town Code.

At the January 10, 2017, Town Council meeting, Council considered approval of Ordinance No. 27-2016 on second reading, which included numerous changes to Chapter 66 as recommended by staff and the ORS Committee. After receiving public comments, relative to concerns about certain proposed changes in Chapter 66, Town Council did not approve the second reading of the ordinance and remanded this item to ORS for further review.

Subsequent to the January 10, 2017, Council meeting, staff worked with the ORS Committee to make further modifications to the proposed changes to Chapter 66 and at the September 19, 2017, Town Council meeting, staff recommended approval of first reading of Ordinance No. 28-2017 which contained the updated revisions to Chapter 66, as recommended by the ORS Committee. At this meeting, Town Council decided not to approve the ordinance on first reading after receiving public comments and referred the matter back to ORS for further review. This item has been in the pending status with ORS until Council's direction on September 13, 2018, to continue discussions regarding changes to this chapter of the Code.

In preparation for discussion at the October 11, 2018, ORS meeting a copy of Ordinance No. 28-2017 and its companion memo is attached for your review. Said ordinance includes the ORS Committee's most recent recommended changes, which were considered by Council on 9-19-17 but not approved.

Although the entirety of Chapter 66 is being provided for your review, staff intends on focusing the discussion at the ORS meeting on the prohibition of new plantings of ficus benjamina to comply with Council's desire to advance an ordinance specific to this issue while allowing ORS sufficient time to address the remainder of Chapter 66. Below is an excerpt of the language previously presented in Ordinance 28-2017, which addresses ficus benjamina:

"Sec. 66-311. Prohibited Plants is hereby amended to include the following provision:

(d) Prohibition of ficus benjamina. Due to extreme susceptibility of the invasive white fly pest, and the consequent enforcement issues to require owners to treat or remove infested ficus benjamina, no new planting of ficus benjamina shall be allowed, unless such planting is to replace portions of an existing stand of same material. In situations in which an entire hedge is replaced, it may not be replaced with ficus benjamina.

Attachments

cc: Kirk Blouin, Town Manager
Josh Martin, Director of Planning, Zoning and Building
Paul Brazil, Director of Public Works
Nicholas Caristo, Acting Police Chief
Eric Brown, Assistant Director of Public Works
Brett Madison, Facilities Maintenance Division Manager
Ben Alma, Code/Parking Enforcement Manager
John C. Randolph, Town Attorney

TOWN OF PALM BEACH

Town Council Meeting on: September 19, 2017

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 28-2017 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Code Of Ordinances Of The Town Of Palm Beach At Chapter 66, Natural Resource Protection, Article I, In General, Section 66-2, Definitions So As To Add, Amend Or Delete Various Terms Related To Landscape And Irrigation Requirements; Amending Article Iv, Vegetation, Relating To Conditions For Landscape Design, Installation And Removal; Moving General Requirements For Landscape Design To A New Section 285; Modifying Section 66-286 Establishing Minimum Requirements For Shade Trees, Required Landscaping For Interior Parking Lots, Minimum Landscape Installation Requirements, Modifying Irrigation Standards And Requirements For Irrigation And Irrigation Systems, Providing For Requirements Related To The Submission Of Plans, And Landscape Installation And Removal Permits; Adding Section 66-287 Requiring That All Required Landscaping Be Approved By The Planning, Zoning And Building Department Prior To The Issuance Of Certificates Of Occupancy Or Completion; Adding A New Section 66- 288 Requiring Protection Of Trees During Construction; Adding A New Section 66-289 Requiring Vegetation Maintenance; Adding A New Section 66-290 Providing Standards Related To Tree Trimming; Adding A New Section 66-291 Prohibiting Certain Practices Related To Tree Trimming; Adding A New Provision Prohibiting The Use Of Certain Species Subject To Whitefly Infestation; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

- ▣ **Memorandum Dated August 28, 2017 from John S. Page, Director of Planning, Zoning and Building**
- ▣ **Ordinance 28-2017**

- ▣ **Shade Tree Code Comparison**
- ▣ **Use of Natives Code Comparison**

TOWN OF PALM BEACH

Information for Town Council Meeting on: September 19, 2017

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: John S. Page, Director, Planning, Zoning and Building Department

Re: Amendment to Chapter 66 of the Code of Ordinances related to Landscaping
Ordinance 28-2017

Date: August 28, 2017

STAFF RECOMMENDATION

Staff recommends approval at first reading of Ordinance 28-2017 which contains proposed revisions to Chapter 66 Article I In General (Definitions) and Article IV Vegetation.

GENERAL INFORMATION

In January of this year, the Town Council considered proposed changes to Chapter 66 under 2nd reading of Ordinance 27-2016. The Council heard a concern regarding the proposed changes in general, as well as a concern regarding proposed tree pruning provisions. At that meeting, the Council asked ORS to review the ordinance once again. Staff considered additional input, and has modified the proposed regulations as outlined below.

The proposed changes include a reduction in the number of required shade trees from the original proposal of one (1) per 5,000 square feet, with no maximum as to lot size, to one (1) tree per 5,000 square feet up to a maximum of 8 required trees (for lots exceeding 40,000 square feet of lot size). As can be seen in Attachment A, both requirements are below requirements in most local codes. In response to the concerns regarding the requirement that tree trimming be performed under the supervision of a certified arborist, that wording has been removed. However, the American National Standards Institute (ANSI) standard for tree pruning is the industry standard and contained in many codes, including Palm Beach County's code, and should be familiar to most tree companies, and Staff recommends retaining that language.

The Code currently contains a provision that landscape plans shall include at least 33 percent of highly or moderately drought tolerant plants. This ordinance includes a proposed requirement that 25% of all required landscaping consist of native vegetation. Attachment B is a listing provided by Beth Dowdle of other jurisdictions' requirements regarding the use of native vegetation.

At the request of the Public Works Director, language exempting the Town from these landscaping provisions has been included in Sec. 66-213(4).

ATTACHMENTS

cc: Skip Randolph, Town Attorney
John S. Page, Director of Planning, Zoning & Building
Logan Elliott, Zoning Technician

ORDINANCE NO. 28-2017

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AT CHAPTER 66, NATURAL RESOURCE PROTECTION, ARTICLE I, IN GENERAL, SECTION 66-2, DEFINITIONS SO AS TO ADD, AMEND OR DELETE VARIOUS TERMS RELATED TO LANDSCAPE AND IRRIGATION REQUIREMENTS; AMENDING ARTICLE IV, VEGETATION, RELATING TO CONDITIONS FOR LANDSCAPE DESIGN, INSTALLATION AND REMOVAL; MOVING GENERAL REQUIREMENTS FOR LANDSCAPE DESIGN TO A NEW SECTION 285; MODIFYING SECTION 66-286 ESTABLISHING MINIMUM REQUIREMENTS FOR SHADE TREES, REQUIRED LANDSCAPING FOR INTERIOR PARKING LOTS, MINIMUM LANDSCAPE INSTALLATION REQUIREMENTS, MODIFYING IRRIGATION STANDARDS AND REQUIREMENTS FOR IRRIGATION AND IRRIGATION SYSTEMS, PROVIDING FOR REQUIREMENTS RELATED TO THE SUBMISSION OF PLANS, AND LANDSCAPE INSTALLATION AND REMOVAL PERMITS; ADDING SECTION 66-287 REQUIRING THAT ALL REQUIRED LANDSCAPING BE APPROVED BY THE PLANNING, ZONING AND BUILDING DEPARTMENT PRIOR TO THE ISSUANCE OF CERTIFICATES OF OCCUPANCY OR COMPLETION; ADDING A NEW SECTION 66-288 REQUIRING PROTECTION OF TREES DURING CONSTRUCTION; ADDING A NEW SECTION 66-289 REQUIRING VEGETATION MAINTENANCE; ADDING A NEW SECTION 66-290 PROVIDING STANDARDS RELATED TO TREE TRIMMING; ADDING A NEW SECTION 66-291 PROHIBITING CERTAIN PRACTICES RELATED TO TREE TRIMMING; ADDING A NEW PROVISION PROHIBITING THE USE OF CERTAIN SPECIES SUBJECT TO WHITEFLY INFESTATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Town Council determined that a comprehensive review of the Town's Code of Ordinances was desirable; and

WHEREAS, Staff reviewed the sections of Chapter 66 related to landscaping and irrigation requirements, and reported its findings to the Ordinance Rules and Standards Committee, and

WHEREAS, it was determined beneficial to institute a landscape installation permit procedure to ensure that approvals by the Town Council, ARCOM and LPC were being implemented in perpetuity for the benefit of applicants, neighbors and the community in general, and that the costs for those reviews and inspections were recovered; and

WHEREAS, it was determined that significant benefit to the community would be derived by strengthening existing provisions related to water conservation, maintenance of trees and other landscaping, and instituting design principles for landscaping and irrigation based on current conservation initiatives comparable to adjacent municipalities and counties; and

WHEREAS, it was determined that a reduction in the requirements for a waiver from watering requirements would promote more utilization of weather-based irrigation systems.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALMBEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are hereby ratified and confirmed.

Section 2. The code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 66, Natural Resource Protection; Article I, In General; Section 66-2, Definitions, to read as follows:

“Sec. 66-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alter or alteration of stormwater systems means work done on a stormwater management system other than that necessary to maintain the system's original design and function.

Alter or alteration of vegetation means anything other than trimming of vegetation, including but not limited to, trampling, crushing, breaking, digging up, or excessive cutting of roots, stems, or branches. ~~to cut, trim, remove, defoliate, or otherwise destroy or disturb by any means, leaves, limbs, stems, roots, or other plant parts, dead or alive.~~

Antitranspirant means a protective coating, generally applied to plant materials prior to or immediately after transplanting, that reduces water loss through the leaf surface.

Buffer, perimeter landscape is an area of flat ground at grade or bermed land which is set aside along the perimeters of a parcel of land in which landscaping is required to provide an aesthetic transition between adjacent plots or to eliminate or reduce adverse environmental impact, and incompatible land use impacts.

Cistern means an underground container that is used for collecting and storing rainwater.

Clear trunk when referring to palms means grey wood and sheath, boot, nut or other growth above the grey wood but does not include the fronds.

Cultivated landscape area means planted areas that are frequently maintained by mowing, irrigating, pruning, fertilizing, etc.

Curb means Type D or Type F curbing that border along the edge of a roadway, path, etc. typically constructed of concrete which may perform any one or more of the following functions:

- (A) forms a structural confinement of the road's edge, parking island and medians;
- (B) may be raised to prevent vehicular traffic from leaving the road surface; and
- (C) provides a channel to collect and direct rainfall runoff from the road surface.

DSH means diameter at standard height (4.5 feet or 1.37 meters) measured from the top of rootball

Detention means the collection and storage of surface water for subsequent gradual discharge.

Dune means a hill or ridge of windblown sand and marine deposits formed by action of the wind and water, often stabilized by vegetation indigenous to this formation.

Erosion and sediment control plan means a plan for the control of soil erosion, sedimentation of waters and sediment related pollutants, and stormwater runoff resulting from land disturbing activity. The town may require the party responsible for carrying out the plan to submit monitoring reports, as deemed necessary, to determine whether the measures required by the approved plan are being properly performed.

Essential element means any element of a landscape plan which is determined by either the Architectural or Landmark Preservation Commission as being mandatory and upon which an approval is predicated. Changes to essential elements cannot be made without approval from the respective Commission. Examples of essential elements include, but are not limited to, buffers, screening, trees, and palms.

Grey wood and clear wood means the portion of a palm trunk which is mature hardwood measured from the top of the rootball to the base of the green terminal growth, sheath, nut or boot. Refer to Sec. 66-284 Diagram A.

~~Evapotranspiration-based controller~~ means an irrigation controller that calculates soil moisture from known weather and related inputs, as follows:

- ~~(1) — Receives and monitors weather data or on-site environmental conditions;~~
- ~~(2) — Calculates the amount of moisture input to and moisture lost from the soil and plants;~~
- ~~(3) — Automatically creates or adjusts the irrigation schedule to apply only the amount of water necessary to maintain adequate soil moisture.~~

Ground cover means plants, other than turf grass, normally reaching an average maximum height of not more than 24 inches at maturity.

Hat-racking means the removal of main stems, tops of trees, or a significant percentage of tree canopy, generally by cross-cutting the main stem(s) or leaders, leaving stubs.

Hedge means a dense row of regularly spaced shrubs planted to form a continuous, unbroken visual screen.

Impervious surface means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes but is not limited to semi-impervious surfaces such as compacted clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

Irrigation system means a permanent, artificial watering system designed to transport and distribute water to plants.

Landscape/landscaping means the following:

(A) When used as a noun, this term shall mean living plant materials such as beautification strips, floral installations, hedges, sod, grasses, groundcover, shrubs, vines, trees or palms and nonliving durable materials commonly used in environmental design such as, but not limited to, walls or fences, aesthetic grading or mounding, but excluding pavers, paving, artificial turf, turf block, rocks and structures.

(B) When used as a verb, this term shall mean the process of installing or planting materials commonly used in landscaping or environmental design.

Landscaped open space means open space which is covered and maintained with natural growth in a permeable soil.

Land disturbing activity means any land change that may result in soil erosion from water or wind and the movement of sediments and sediment related pollutants in waters, including but not limited to clearing, grading, excavating, transporting and filling of land.

Mangroves means any specimen of *Avicenna germinans* (black mangrove), *Laguncularia racemosa* (white mangrove), *Rhizophora mangle* (red mangrove), and *Conocarpus erectus* (buttonwood mangrove), dead or alive, regardless of size.

Moderate drought tolerant means vegetation that requires supplemental irrigation during extreme dry periods to maintain attractive appearance.

~~*Mulch* means nonliving-organic, arsenic free material such as wood chips, pine straw or bark placed on the soil to reduce evaporation, prevent soil erosion, control weeds and buffer soil temperature. and synthetic materials customarily used in landscape design to retard erosion and retain moisture.~~

Multi-trunk tree is a tree that has a minimum of three trunks with no more than five trunks of equal diameters originating from the ground and with angles no greater than forty-five (45) degrees with diameter of at least 1 ½ inches measured at DSH.

Native habitat means habitat that predominantly consists of or is used by those communities of plants, animals, and other flora and fauna which occur indigenously on the land, in the soil, or in the water.

Native plant community is a natural association of plants dominated by one or more prominent native plant species, or a characteristic physical attribute as indicated by the Town of Palm Beach.

Native plant species shall be the plant species indigenous to the ecological communities of South Florida, as indicated as native to South Florida by the University of Florida in the Atlas of Vascular Plants, or that can be scientifically documented to be native to South Florida.

Native shoreline vegetation means vegetation that occurs indigenously on the land, in the soil, or in the water.

Opaque: *obscure as to be visually unintelligible.*

Overall height of a tree means the height measured from the ground to the bend of the topmost branch of the tree. Overall height of palm means the measurement from the ground to the bend of the topmost frond.

Pestilent exotic species means any specimen of Melaleuca (Melaleuca quinquenervia), Australian Pine (Causarina spp.), or Brazilian Pepper (Schinus terebinthifolius), or other species referenced elsewhere in this chapter, regardless of size.

Planting means the placing on or setting into the ground of live plant material.

Planting soil/topsoil means a medium composed of equal portions of sand and muck. Palm planting soils means a medium composed of no more than 80 percent sand and remainder soil consisting of muck.

Prop roots means the structures originating below the lowest limbs of red mangroves, and which are also known as stilt roots.

Rainwater harvesting system means an active (e.g. cisterns) or passive system (e.g. rain barrels) designed to collect stormwater as a means of meeting water demands and reducing runoff and pollutant load.

Rate means volume per unit of time.

Removal means to relocate, cut down, remove, or in any other manner destroy or cause vegetation to be destroyed.

Retention means the collection and storage of runoff without subsequent discharge to surface waters.

Runoff coefficient means ratio of the amount of rain that runs off a surface to that which falls on it; a factor from which runoff can be calculated.

Sediment means the mineral or organic particulate material that is in suspension or has settled in surface waters or groundwaters.

Sediment related pollutants means substances such as nutrients, pesticides, pathogens, and organic materials that are transmitted with, or in association with, sediment.

Shrub means a self-supporting, woody plant full to the ground with three or more branches produced from the ground which could be maintained in a healthy state to the height indicated on the landscape plans.

Structure means anything constructed or erected, except for fences, the use of which requires any type of permanent location on the ground or attached to something having a permanent location on the ground, and shall include but not be limited to signs, walkways or types of construction with interior surfaces not normally accessible for human use.

Substantial improvement means any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a one-year period in which the cumulative cost equals or exceeds 50 percent of the market value of the structure prior to the improvement. The market value of the building should be:

- (1) The appraised value of the structure prior to the start of the initial repair or improvement, or
- (2) In the case of damage, the value of the structure prior to the damage occurring.

This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been pre-identified by the code enforcement official and which are solely necessary to assure safe living conditions.

Surface water means water above the surface of the ground whether or not flowing through definite channels.

Temporary irrigation system is one which is not to be supplied by buried polyvinyl chloride (PVC), polyethylene (PE), copper tubing or any other direct buried piping.

Tree means any living, self-supporting woody perennial plant, together with its root system, growing upon the earth, usually one trunk or multi-trunk with diameter of at least 1 ½ inches measured at DSH.

Tree, dicotyledonous (Dicot) means a tree having a woody stem, branches, and leaves with net venation and having a separate, distinct outer bark which can be peeled from the tree.

Tree, shade/canopy means a tree which generally grows to an overall height of 30 feet or greater and which provides significant shade/canopy.

Tree, monocotyledonous (Monocot) means a palm or tree having fronds with parallel venation and no true woody bark.

Trim or trimming of vegetation means to cut branches, twigs, limbs, and foliage, but does not mean to remove, defoliate, or destroy. Trimming does not include the cutting of prop/aerial roots.

Turf means continuous plant coverage consisting of grass species suited to growth in the county.

Untrimmed mangrove means a mangrove that has not been trimmed over two successive growing seasons.

Vegetation means plant life that includes but is not limited to trees, palms, shrubs, groundcover, vines, and turf.

Vehicular encroachment is any protrusion of a motor vehicle outside of the boundaries of a vehicular use area into a landscape area.

Vehicular use area (VUA) means an area used for loading, circulation, access, storage, parking, or display of any type of vehicle, boat, or construction equipment whether self-propelled or not.

Very drought tolerant means vegetation that can survive without supplemental irrigation after establishment.

Vine means any plant with a long, slender stem that trails or creeps on the ground or climbs by attaching itself on a support.

Wetlands means hydrologically sensitive areas that are identified by being inundated or saturated by surface water or groundwater with a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands shall also be defined as those areas within the regulatory jurisdiction of the department of environmental regulation pursuant to F.S. ch. 403 and F.A.C. rules 17-3, 17-4, and 17-12. Wetlands generally include swamps, marshes, bogs and similar areas.

Weather based irrigation Evapotranspiration-based controller means an irrigation controller that calculates soil moisture from known weather and related inputs, as follows:

- (1) Receives and monitors weather data or on-site environmental conditions;
- (2) Calculates the amount of moisture input to and moisture lost from the soil and plants;
- (3) Automatically creates or adjusts the irrigation schedule to apply only the amount of water necessary to maintain adequate soil moisture.

Window means a visual corridor through vegetation between upland properties and the waterfront.

Section 3. The code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 66, Natural Resource Protection; Article IV, Vegetation, to read as follows:

“DIVISION 1. - GENERALLY

Sec. 66-211. - Findings.

It is found and determined that:

- (1) Landscaping promotes the health, safety and welfare of the community by absorbing carbon dioxide and returning oxygen to the air; precipitating dust and other articles in the air; providing wildlife habitat; providing soil stabilization; making the built environment more attractive; and helping to abate noise.
- (2) Proper landscaping and irrigation techniques can result in significant water conservation.
- (3) Landscaping provides a positive aesthetic value to the town.
- (4) Native shoreline ecosystems provide valuable shoreline stabilization and protection, wildlife habitat, and maintenance of environmental quality.
- (5) Pestilent exotic species constitute a nuisance in the town because:
 - a. They have spread rapidly to many areas of the town, displacing the diverse native Florida vegetation and associated wildlife habitat, and creating ecologically undesirable vegetative monocultures.
 - b. They can have adverse effects upon human health and pose safety hazards during high wind conditions.
 - c. The health, safety and welfare of the present and future residents of the town are benefited by minimizing degradation of the native ecological systems of the town.
- (6) Various plant species having aesthetic, ecological, educational, historical, recreational, economic or scientific value have been classified as endangered, threatened or species of special concern and should be protected.

Sec. 66-212. - Purpose and intent.

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

- (1) ~~Promote water conservation~~ Improve air quality by promoting evapotranspiration through the use of permeable land areas for aquifer recharge and surface water filtration.
- (2) Maintain and improve the aesthetic appearance of the town through appropriate landscape design; thereby protecting and increasing property values throughout the community.
- (3) Improve the environmental quality of the town.

- (4) Eradicate or control ~~certain~~ invasive exotic plant species as listed on the Florida Exotic Pest Plant Council's List of Invasive Plant Species.
- (5) Protect and encourage native shoreline and wetland ecosystems.
- (6) Offer special guidelines for the removal and control of those pestilent exotic species that are particularly deleterious to native shoreline environments.
- (7) Protect listed plant species that inhabit the town as referenced in Sec. 66-312.
- (8) Reduce noise and pollution by designing landscaping to visually screen unsightly views, and reduce noise impacts from major roadways and incompatible uses, through the filtering capacity of living trees and vegetation.
- (9) Provide a visual buffer between otherwise incompatible types of land uses.
- (10) Strengthen important vistas and reinforce desirable site design.
- (11) Promote the use of vegetation for energy conservation by encouraging cooling through the provisions of shade and channeling of breezes.
- (12) Encourage the use of rain harvesting systems such as cisterns, as a means to conserve water by reducing overwatering of landscapes.
- (13) Promote water conservation and lower water costs through the use of smart irrigation systems.
- (14) Promote health and safety through greater use of cultural and biological controls and reduced use of chemical pesticides for the management of pests such as whitefly infestations.
- (15) Promote the planting of native vegetation to encourage the presence of birds and wildlife.

Sec. 66-213. - Applicability.

This article shall apply to, and a permit shall be required when one or more of the following activities are proposed on private property: ~~any new development or redevelopment.~~ Provisions relating to tree removal or wetland protection apply to existing development, as noted.

- (1) An entire lot where new construction or redevelopment occurs.
- (2) Those portions of a lot where proposed changes in vegetation (removal, relocation or addition):
 - a. Constitute 35% or more of the existing landscaped open space (but not less than 1,000 square feet) of a lot as defined in Chapter 134.
 - b. Are within 10 feet of any side, rear, street-side or street-rear property line and reduce the opacity of existing screening of more than 30 lineal feet.
 - c. Occur within an easement where no easement agreement exists, or where proposed changes are not in conformance to an existing agreement or encroach into a previously approved drainage system.
 - d. Affect "essential elements" of a landscape design as designated by the Architectural or Landmark Preservation Commission, and memorialized in an agreement, recorded document or contained as a deed restriction between the town and the property owner.
 - e. Require Architectural or Landmark Preservation Commission approval.
- (3) Existing development when proposed activities involve tree removal (See Sec. 66-236), or wetland protection (See Sec. 66-361 through Sec. 66-400).
- (4) This provisions of this article shall not apply to activities undertaken on property owned by the Town of Palm Beach.

Secs. 66-214—66-234~~5~~. - Reserved.

DIVISION 2. - PERMITS

Sec. 66-235. – Application procedure for vegetation installation permit.

- (a) Requirement for application. Installation permits shall be obtained by making application prior to installation to the planning, zoning and building department director or designee, after having first received approval from the architectural or landmark preservation commission if applicable, and by paying a permit fee in accordance with the schedule of fees adopted by resolution by the town council and amended in the same manner.
- (b) Permit Issuance and time limitations. Upon approval of an application, the planning, zoning and building department director or his or her designee shall issue a permit. Permits shall expire and become null and void if work has not commenced within 90 days from the date of permit issuance. Work must be completed and pass a final inspection within one year of issuance of the permit. A time extension for the permit may be granted by the planning, zoning and building department director or designee for good cause upon written request.

Sec. 66-236. - Application procedure for vegetation removal permit.

- (a) Requirement for Application Removal permits. Vegetation removal permits shall be required to remove trees, essential elements as defined herein, or vegetation which affects more than 35% of the existing landscape open space on a site, not sought in conjunction with a vegetation installation building permits. Such permits shall be obtained by making application prior to removal, relocation or replacement to the planning, zoning and building official department director or his designee. Applications must be submitted at least ten working days prior to the proposed date of removal in order to be considered timely, and shall be accompanied by a fee. Failure to submit a permit application in a timely manner may result in the payment of a penalty fee. Permit and penalty fees are in accordance with the schedule of fees adopted by resolution by the town council and amended in the same manner.
- (b) Circumstances justifying issuance. Vegetation removal permits shall be issued in the following circumstances:
- (1) Where vegetation, including a trees, due to natural circumstances, is no longer viable, is in danger of falling, is too close to existing structures so as to endanger such structures, interferes with utility services, creates unsafe vision clearance, or constitutes a health hazard;
 - (2) Where the affected vegetation will be relocated, replaced with a suitable substitute vegetation tree, or otherwise preserved, with the exception of mangroves, which are regulated elsewhere in this chapter; or
 - (3) Where vegetation tree removal is part of a plan to restore or encourage native shoreline species, either on the coastal strand, as described in section 66-81 et seq., resolution number 37-89, or along Lake Worth, as described in articles II and III of this chapter.
 - (4) Where proposed replacement vegetation, including trees, meets the requirements and intent of this code, as determined by the Planning, Zoning and Building Department Director or designee.
- (c) Permit issuance and time limitations. Upon approval of an application, the planning, zoning and building department director official or his designee shall issue a permit. Permits shall expire and become null and void if work is not commenced within 90 days from the date of permit issuance. Work must be completed and pass final inspection within six months of permit issuance. A time extension for the permit may be granted by the planning, zoning and building department director or designee for good cause upon written request.

(d) Where removal is in conjunction with an approved vegetation installation permit, all vegetation or trees to be removed must be included in an approved landscape plan, and a separate vegetation removal permit will not be required.

(e) The provisions contained in this section do not apply to projects which solely involve the removal of pestilent exotic species.

Secs. 66-237—66-260. - Reserved.

DIVISION 3. - PLANS

Sec. 66-261. - Plans required.

All site plans for new development and redevelopment shall be required to submit a landscape plan and irrigation plan to the architectural commission, or landmarks commission, as applicable. All plans shall be signed and sealed by a registered landscape architect licensed to practice in the state of Florida, who shall guarantee that the plans meet all specifications of this chapter. The plans shall include a drainage statement by a professional engineer registered licensed to practice in the state of Florida that the landscape plan is not in conflict with the stormwater management plan.

All work requiring a vegetation installation or removal permit which does not require architectural of landmark preservation commission review must be accompanied by information sufficient to determine conformance to this code, but need not be signed and sealed by a registered landscape architect unless the planning, zoning and building director or his or her designee determines that such signature and seal and a statement that plans meet all specifications of this chapter are necessary.

Sec. 66-262. - Landscaping plan.

(a) Landscaping plans shall ~~should~~ identify:

- (1) Any native, historic or specimen trees located on the property.
- (2) Any threatened or endangered vegetative species contained on ~~the Florida Natural Areas Inventory's "Special Plants List,"~~ the Florida Game and Fresh Water Fish Commission's "Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida," or a comparable list approved by the town planning, building and zoning department.
- (3) The location, number, height, spread, size, amount of clear or grey wood, clear trunk, botanical name, cultivar and common name of all existing vegetation four inches or larger in diameter on the property.
- (4) The location, species name, and common name of all proposed vegetation on the property.
- (5) The location and type of trees to be relocated or removed, and place of relocation if applicable.
- (6) All elements of an approved stormwater management plan applicable to the project, and a drainage statement by a professional engineer registered in the state that the landscape plan is not in conflict with the stormwater management plan.
- (7) Planting specifications and irrigation sources, including but not limited to staking, fertilization, top soil, mulching and applicable drainage and subsurface treatments.
- (8) Property boundaries, location of proposed or existing buildings and site improvements, including but not limited to walls, gates, retention areas, parking, access aisles, driveways, sidewalks, easements, rights-of-way, drainage structures, overhead and underground utilities, poles, fire hydrants, check valves, transformers and other features to remain or to be removed.
- (9) Method to protect trees, including historic or specimen trees, and native plant communities during construction.

(10) Such other information that may be required to give a complete understanding of a proposed plan.

(b) Details shall be in the same scale as the site plan, but not less than 1 inch equals 50 feet, with 1 inch equals 20 feet recommended for all planting plans.

Sec. 66-263. - Irrigation plans.

Detailed irrigation plans must be signed by an individual certified under the Irrigation Association Certification Program, shall submitted as part of a building permit, and shall include:

- (1) Layout of irrigation system and identification of components.
- (2) Explanation of relationship between plant groupings and type of irrigation used.
- (3) If the use of cisterns is proposed, include the size, location and estimated rainfall to be collected.

Secs. 66-264—66-284~~5~~. - Reserved.

DIVISION 4. - DESIGN REQUIREMENTS

Sec. 66-285. – General

- (1) Landscape design shall enhance architectural features, relate structural design to the site, visually screen dissimilar uses and unsightly views, reduce noise impacts from roadways and incompatible uses, strengthen vistas and reinforce neighborhood site design and architecture.
- (2) Existing specimen trees and native vegetation shall be preserved to the maximum extent possible, and the landscape plan shall include at least 33 percent of highly or moderately drought tolerant plant species where possible.
- (3) At least 25 percent (25%) of all required landscaping, by category in the form of trees, shrubs and ground cover plants, other than grass, shall consist of native vegetation. The Xeriscape Plant Guide by the South Florida Water Management District, or if available County or regional lists as amended may be used to determine appropriate native vegetation.
- (4) Canopy trees and shrubs shall be used to reduce energy consumption by shading buildings and paved surfaces.
- (5) Street trees shall be used to shade roadways and provide visual order. All street tree planting shall conform to the requirements in the town's Right-of-Way Manual.
- (6) Canopy trees and shrubs shall be placed on the site in locations that take into consideration proximity to native plant communities, underground rain harvesting systems, sewer lines, and other underground utilities and facilities.
- (7) Adjoining properties must be screened to mitigate negative impact to neighboring properties and adverse impacts of development.
- (8) All vegetation included in the proposed landscape plan must be in conformance with the requirements of the town's code of ordinances.

Sec. 66-286. - Water conserving landscape design.

(a) The following section shall be applicable to all new construction, construction with a value of 50% or more of the total value of the principle structure, or those activities on a lot which are included in a landscape installation or removal permit. Additional requirements may be placed by the town council as a condition of a development order, or in conjunction with an approval granted by the

architectural or landmark preservation commission, in order to promote the purpose and intent of this article and substantial improvements.

- (1) *Required.* Landscapes shall be designed in accordance with water conserving landscape design elements set forth in subsections (2)—(95).
- (2) *Minimum landscaped open space.* Minimum landscaped open space shall be required as stipulated by the lot, yard and bulk regulations in the zoning code, chapter 134.
- (3) *Required vegetation.* The following vegetation is required. The nine principles of Florida Friendly landscaping shall be utilized.

a. Lawns.

1. If very drought tolerant grass is used, not more than 70 percent of the required landscaped open space shall be planted in lawn grass.
2. If moderate drought tolerant grass is used, not more than 60 percent of the required landscaped open space shall be planted in lawn grass.

(Information on Florida friendly drought tolerant grass can be found at: <http://fyn.ifas.ufl.edu/ifaspubs.htm>.)

3. Turf shall be treated as a planned element of the landscape and shall be placed so that it can be irrigated separately from planting beds.

b. Nonturfed areas.

1. Nonturf areas shall be planted in mixes of trees, shrubs and ground covers.
2. Plants shall be grouped according to their water needs, and irrigated accordingly. At least 33 percent of the groupings shall be characterized by highly or moderately drought tolerant vegetation.

(Information for Florida friendly landscaping drought tolerant plants can be found at: <http://www.floridayards.org/index.php>)

c. Trees.

1. A minimum of one shade/canopy tree is required for every 5,000 square feet or portion thereof of a lot. This requirement is applicable to the first 40,000 square of a lot size only.
2. Every effort should be utilized to reduce the risk of damage and liability by utilizing more salt tolerant and wind tolerant trees and palms due to the town's coastal proximity and the high risk of hurricanes in South Florida.
3. The selection and placement of all street trees must refer and adhere to the Town of Palm Beach Standards Applicable To Public Rights-Of-Way And Easements Within The Town Of Palm Beach.

d. Screening of equipment.

1. Dumpster, mechanical equipment, A/C units, electrical transformers, generators and all above ground equipment shall be screened in accordance with applicable requirements contained in Chapter 134 Zoning.
2. Such screening shall not interfere with normal operation of equipment.

e. Parking area interior landscaping and parking islands.

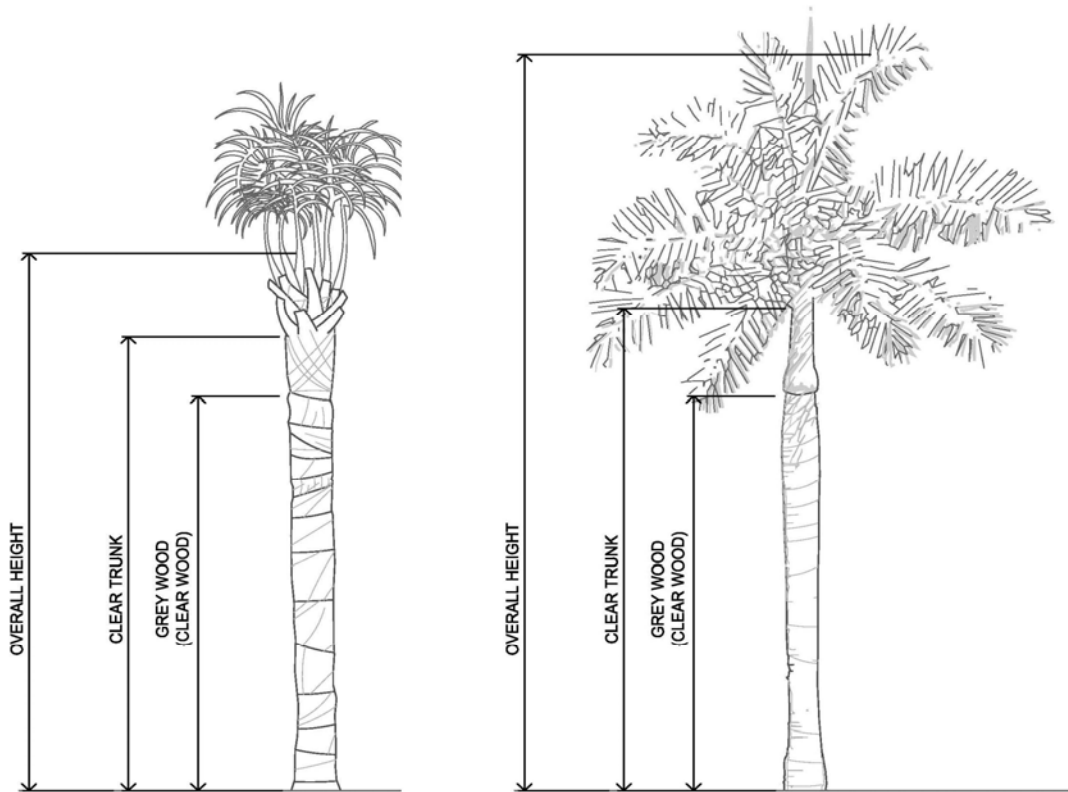
1. The following requirements are applicable to interior parking areas of parking lots subject to the requirements of Sec. 134-2179(e) and (f) and are in addition to the requirements contained therein.

- i. Terminal islands. Any landscaped islands must have at least 5 feet of planting area width (excluding Type D or Type F curbs) and 18 feet in length shall be provided at the end of each parking row. In addition, there shall be a minimum requirement of 1 tree and 25 groundcover plants planted in every landscaped terminal island.
- ii. Interior islands. All parking areas shall be so arranged so that if there are 10 contiguous parking spaces along the same parking aisle, the eleventh space shall be a landscaped island. These landscaped interior islands must be at least 5 feet of planting area width (excluding Type D or Type F curbs) and 18 feet in length. In addition, there shall be a minimum requirement of 1 tree planted in every interior landscape island.
- iii. Landscape treatment. All interior planting areas not dedicated to trees, shrubs, or existing vegetation, shall be landscaped with sod, groundcover, or other appropriate landscape treatment (no sand, rock, pavement, or base soil).
- 2. Sight triangles and clear visibility requirements. The creation and maintenance of site triangles must conform to Chapter 134 and the Town of Palm Beach Standards Applicable To Public Rights-Of-Way And Easements Within The Town Of Palm Beach.

(4) Minimum installation requirements.

- a. Shade/canopy trees shall be a minimum overall height of 12 feet, 6 feet spread, 2.5 inches DSH and 5 feet of clear trunk at planting.
- b. Intermediate trees shall be a minimum overall height of 10 feet, 5 feet spread, 2 inches DSH and 4.5 feet clear trunk at planting.
- c. Small trees shall be a minimum overall height of 8 feet, 4.5 feet spread, 1.5 inches DSH and 4 feet clear trunk at planting.
- d. Palms shall have a minimum of 8 feet clear trunk at planting. See Diagram A for palm height measurements. All proposed coconut palms shall be certified to be resistant to Lethal Yellowing.

DIAGRAM A



- e. Multi-trunk trees shall have a minimum of 3 – 5 trunks with equal diameters originating from the ground with angles no greater than 45 degrees and with no crossing branches.
- f. Shrubs shall be a minimum of 2 feet height, full to base, 2 feet spread and planted a maximum of 2 feet on center when measured immediately after planting. If the spread cannot be met with the 2 feet requirement, then 18 inches spread and 18 inches on center may be utilized. When shrubs are used for the perimeter buffer, said shrubs shall be a minimum of 2 feet in height at time of planting and branch touching branch.
- g. Required buffer hedges shall be planted a minimum 6 feet high, full to the base, with branch touching branch and maintained so as to form a continuous, unbroken solid, visual screen.
- h. Shrubs shall be planted so the branches do not touch the building walls or walkways at time of planting.
- i. The use of tree and plant material that reinforces the ambience of the town's distinctive, lush, diverse subtropical character is strongly encouraged.
- j. Plant quality for all required landscaping shall be Florida No. 1 or better, as provided in Grades and Standards for Nursery Plants, Part 1 and Part 2, as amended, as published by the Florida Department of Agriculture and Consumer Services. All vegetation shall be clean and free of noxious pests or disease. Sod shall be green, healthy, clean and visibly free of weeds, noxious pests and diseases. It shall be solid St. Augustine 'Floritam', 'Palmetto', Zoysia 'Empire', Paspalum 'Seashore', Bermuda or other cultivars on the Florida Friendly Landscaping list, laid on a smooth planting base with

tight joints, at 100 percent coverage at time of planting and cut to fit all landscape planters and curb areas.

- k. Planting soil and topsoil shall be clear and free of construction debris, weeds and rocks. The topsoil and/or planting soil for all planting areas shall have a pH between 6.5 and 7.0 and be composed of the appropriate percent muck and sand in accordance with the requirements of the plant material.
- l. All trees/palms shall be properly guyed and staked at the time of planting until one year from landscape final or establishment. The use of nails, wire or rope, or any other method which damages the trees or palm, is prohibited.
- m. All plants shall be installed so the top of the rootball is 10% above the surrounding soil grade. All synthetic string, synthetic burlap, cords, or wire baskets shall be removed prior to planting.
- n. All proposed landscaping shall be installed with fertilizer which has trace minor elements in addition to a minimum six percent Nitrogen (N) - six percent Phosphorus (P) - six percent Potassium (K) of which 50 percent of the nitrogen must be derived from an organic source.
- o. All plant root ball sizes shall conform or exceed the minimum standards in the current edition of Florida Grades and Standards.

(54) *Irrigation standards.*

- a. Weather-based controlled irrigation systems, ~~either manual or automatic, may~~ must be used for the cultivated landscape areas in accordance with the provisions in this article.
- b. The use of rainfall harvesting systems is encouraged and promoted.
- ~~c.~~ Irrigation shall be designed in zones that reflect necessary water regimes for specific groupings of vegetation.
- ~~d.~~ Sprinkler heads irrigating lawns or other high water requirement landscape areas shall be circuited so that they are on a separate zone from those irrigating trees, shrubbery or other reduced water requirement areas.
- ~~e.~~ Zones containing existing native plant communities and ecosystems maintained in a natural state do not require, and shall not have any additional irrigation water added in any form.
- ~~f.~~ In order to prevent overthrow, low trajectory heads or low volume water distributing devices shall be used when irrigating confined areas.
- ~~g.~~ No more than ten percent of spray radius shall be allowed onto impervious areas.
- ~~h.~~ Newly installed native plant areas may require irrigation during the establishment period. Water during this period shall be applied from a temporary irrigation system, a water truck, or by hand watering from a standard bib source.
- ~~i.~~ A temporary irrigation system shall be removed no later than 60 days after completion of the planting.
- j. In areas where irrigation is necessary or advisable, irrigation must be designed to provide 100 percent coverage of landscape areas.

- (65) *Use of organic mulches.* ~~When appropriate, a~~ A minimum of two inches of arsenic-free organic mulch shall be installed around each tree planting for a minimum of 18 inches beyond its trunk in all directions, including palms, and throughout all hedge, shrub, and groundcover plantings. Mulch shall be pulled a minimum of two inches away from trees and palms. Appropriate mulching material consists of by-product or alternative mulches such as pine bark, eucalyptus, utility or other mulch as recommended by Florida Friendly Landscaping principles. The use of Cypress mulch is prohibited.

- ~~(6) Antitranspirants.~~ In order to reduce water loss through leaves during installation, antitranspirants shall be used and applied on all permitted landscape installation projects for a minimum period of 90 days from the date of installation.
- ~~(7) Irrigation plans.~~ Detailed irrigation plans shall be submitted as part of a building permit, and shall include:
- ~~a. Layout of irrigation system and identification of components.~~
 - ~~b. Explanation of relationship between plant groupings and type of irrigation used.~~
 - ~~c. Irrigation plans must provide 100 percent coverage of landscape areas.~~
- ~~(78) Control systems.~~
- ~~a. The irrigation system shall be equipped with rainfall weather or moisture sensing devices to avoid operation during periods of sufficient moisture.~~
 - ~~b. Automatically controlled irrigation systems shall be operated by an irrigation controller that is capable of watering high water requirement areas on a different schedule from low water requirement areas.~~
- ~~(b9) Advanced irrigation systems.~~ This section shall be applicable to anyall new, replacement or modification affecting more than 50% of a landscape irrigation system, construction, substantial improvement and existing properties applying for a variance from the day-of-week watering restrictions imposed by the South Florida Water Management District (SFWMD), the City of West Palm Beach (WPB) or the Town of Palm Beach (town). Variances from the day-of-week watering restrictions does not relieve a property owner from complying with irrigation restrictions contained in a water shortage order or water emergency declaration issued by the SFWMD, WPB or the town.
- ~~(1)a-~~ Any person who purchases or installs an automatic landscape irrigation system on their property must properly install, maintain, and operate the system in accordance with manufacturer specifications, technology that inhibits or interrupts operation of the system during periods of sufficient moisture, and otherwise comply with the provisions of this section.
 - ~~(2)b-~~ All components of an automatic landscape irrigation system, including but not limited to controllers, soil moisture sensors, sprinkler heads and valves, which are installed subsequent to the date of adoption of this ordinance must conform to smart irrigation standards and be equipped with a weather-based irrigation Evapotranspiration-based (ET) or moisture sensing-based controller. s are required on any new automatic landscape irrigation system or controller installed subsequent to the date of adoption of this ordinance. In addition said systems are required on automatic irrigation systems when any principal structure on a property in the town is substantially altered.
 - ~~(3)~~ The weather-based~~ET~~ irrigation controller must be approved by the building official as meeting the Environmental Protection Agency (EPA) WaterSense® specification for weather-based controllers or, the requirements of the irrigation Association (IA) for climate-based or moisture sensor-based controllers. Or some comparable and applicable standard.
 - ~~(4)~~ Permit fees for the installation of an advanced irrigation system shall be established by the Town Council by resolution which may be amended from time to time. The Town Council may, in its discretion, waive said fees upon application and for good cause.
- ~~(c-)~~ Owners who have a properly operating irrigation system controlled by a weather-based irrigation controller evapotranspiration-based (ET) or moisture sensing-controlled irrigation system shall be eligible for a variance waiver from the day-of-the-week landscape irrigation restrictions set forth in section 122-78(b)(3) and (4) by the submission of an application for a variance waiver, and payment of any applicable fees as adopted by the Town Council by resolution, if the following requirements are met:

- ~~1. The ET controller is approved by the Town of Palm Beach building official as meeting the Environmental Protection Agency (EPA) WaterSense[®] specification for weather-based controllers, the requirements of the Irrigation Association (IA) for climate-based controllers or moisture sensor-based controllers, or some comparable and applicable standard.~~
- ~~2. The owner submits an application for variance to the Town of Palm Beach building official or his/her designee in accordance with section 122-81 along with an application fee in an amount adopted by the town council by resolution.~~
- ~~3. The owner posts a sign in a conspicuous location on the property to inform the public of the approved variance. The sign shall be provided by the town, the cost of which shall be payable to the town in an amount to be determined by the town council by resolution, upon approval of the variance.~~
- ~~4. No irrigation occurs between the daily restricted hours as may be set forth by the South Florida Water Management District and/or the City of West Palm Beach, which is subject to change at any time.~~
- (d-) The town shall maintain a database of all properties which have installed and maintained advanced irrigation systems in accordance with the requirements of this subsection, and which are exempt from the day-of-the-week irrigation restrictions set forth in section 122-78(b)(3) or (4).
- (e-) A ~~variance~~waiver granted from section 122-78(b)(3) or (4) based on the installation and operation of an advanced irrigation system does not relieve a property owner from complying with irrigation restrictions contained in a water shortage order or water emergency declaration issued by the South Florida water Management District, the City of West Palm Beach or the Town of Palm Beach.
- f. ~~Applicability. This section shall apply to all licensed contractors within the jurisdiction of the town who install or perform work on automatic irrigation systems and to any person or entity which purchases or installs an automatic landscape irrigation system on their property.~~ (f)1. A licensed contractor or owner who installs or performs work on an automatic landscape irrigation system must test for the correct operation of each inhibiting or interrupting device or switch on the system. If such devices are not installed, or are not functioning properly, the contractor must install new devices or repair the existing ones and insure that each is operating properly before completing other work on the system.
 - ~~2. A licensed contractor or owner performing work on an automatic landscape irrigation system shall report systems that are not in compliance with this section, to code enforcement personnel in the police department. Failure of a contractor or owner to report non-compliant systems within five business days is punishable by fines as specified in the violations and penalties section of this section. A system that is repaired by the contractor and brought into compliance need not be reported.~~
 - ~~3. Regular maintenance and replacement of worn or broken moisture sensing equipment, such as soil moisture or rain sensors, is not a violation of this section, if such repairs are made within 30 days from the time non-compliance is noted.~~
 - ~~4. All contractors performing work on irrigation systems within the town shall be licensed or registered under F.S. ch. 489, or the Construction Industry Licensing Board of Palm Beach County and shall hold a municipally issued license or business tax certificate that permits work on irrigation systems.~~
- (e)5-A licensed contractor shall perform annually a maintenance review of the weather-based irrigation controller and irrigation system ~~ET-controlled system~~ and certify to the town on an annual basis that the ET-controlled system is properly operating and in compliance with this section. ~~Owners~~ ~~f~~Failure to provide such annual recertification that the system is properly operating shall result in revocation of the ~~variance~~waiver received under from section 122-78(b)(3) or (4).
- g. ~~Violations and penalties.~~

- ~~1. Failure of any person who purchases or installs an automatic landscape irrigation system on their property, or property managed by them, to properly install, maintain, and operate technology that inhibits or interrupts operation of the system during periods of sufficient moisture is a violation of this section, and such person shall be subject to a fine in accordance with section 2-439 of this Code. A person in violation of this section may be cited for each day the system fails to be in compliance with this section.~~
- ~~2. Failure of an owner to report to town code enforcement officials automatic landscape irrigation systems that are not in compliance with this section, which require properly operating devices to inhibit or interrupt the operation of the irrigation system during periods of sufficient moisture, shall be a violation of this section, and such owner shall be subject to a fine in accordance with section 2-439 of this Code.~~

Sec. 66-287. Certificate of Occupancy and Certificate of Completion.

No certificate of occupancy or certificate of completion shall be issued until such time as all of the required landscaping is installed and approved by the planning, zoning, and building department director or designee. However, nothing herein shall prevent the issuance of a temporary certificate of occupancy so long as at least the sod portion of the landscaping has been installed.

Sec. 66-288. Protection of Trees during Construction or Land Development.

- (1) During any construction or land development, protective barriers specified and approved by the Planning, Zoning, and Building Director, or his or her designee, shall be placed and maintained around all trees to be retained on site to prevent their destruction or damage. The developer shall use every precaution possible to avoid damaging such trees by preventing the use or storage of materials or equipment, or the contamination of soil with such materials as paint, oil, solvents, asphalt, concrete, mortar, and the like, within the drip line.
- (2) No attachments other than those of a protective or non-damaging nature, shall be attached to any tree except those trees approved to be removed or relocated.

Sec. 66-289. Vegetation Maintenance Requirements

An owner of land is subject to this code and shall be responsible for the maintenance of said land and landscaping. All vegetation shall be maintained at all times so as to present a healthy, vigorous and neat appearance free from refuse and debris. All landscaped areas shall be sufficiently fertilized and irrigated to maintain the plant material in a healthy and viable condition. All fertilizer and pest control shall be safe and environmentally friendly and applications shall conform to the manufacturer's specifications.

All missing, removed, dead, or damaged vegetation whether from natural or manmade causes shall be replaced with equivalent vegetation in a time period determined by the Town of Palm Beach.

Where vegetation has not been maintained or pervious areas exist without benefit of vegetation which meets the requirements of this code, the owner may be cited at which time the requirements of this code will apply to all areas in violation.

Sec. 66-290. Tree Trimming Standards.

All trees shall be trimmed in accordance with standards established by American National Standards Institute (ANSI A300).

Sec. 66-291. Hatracking/Topping Prohibited.

Pruning a tree by hatracking or topping and thus creating detrimental effects, including vigorous but weakly-attached regrowth, pest susceptibility, pathogen intrusion, and internal decay is prohibited. However, crown reduction in excess of one-third may be permitted under the following conditions:

- (1) If a tree interferes with utility lines or utility structures.
- (2) If a tree has significant damage and in the opinion of the Planning, Zoning & Building Director or designee, should be pruned in order to preserve the tree.

Secs. 66-28792—66-310. - Reserved.

Section 4. Sec. 66-311. Prohibited Plants is hereby amended to include the following provision:

....(d) *Prohibition of ficus benjamina.* Due to extreme susceptibility of the invasive white fly pest, and the consequent enforcement issues to require owners to treat or remove infested ficus benjamina, no new planting of ficus benjamina shall be allowed, unless such planting is to replace portions of an existing stand of same material. In situations in which an entire hedge is replaced, it may not be replaced with ficus benjamina.

(e) *Protection of natural area and incentives.* The county has recognized the Palm Beach Island Sanctuaries (R43 T43 S34; R43 T44 S03/10/15) located within the town as a natural area containing high quality ecosystems that are worthy of protection. The town hereby adopts for purposes of the protection of said natural area and for purposes of the regulation of the buffer area around said natural area those sections of the County Code known as the "Palm Beach County Countywide Prohibited Invasive Non-Native Vegetation Removal Ordinance" relating to the protection and regulation of these areas. Additionally, the town adopts the incentive program offered by the county as incorporated within the "Palm Beach County Countywide Prohibited Invasive Non-Native Vegetation Removal Ordinance."

(f e) *Enforcement.* Violations of this section shall be:

Section 5. Effective Date. This ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 19th day of September, 2017 and second reading on the 10th day of October, 2017.

Gail L. Coniglio, Mayor

Richard M. Kleid, Town Council President

Danielle H. Moore, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST

Bobbie Lindsay, Town Council Member

Gwendolynn Peirce, CMC
Acting Town Clerk

Margaret A. Zeidman, Town Council Member

SAMPLE OF TREE REQUIREMENTS – LOCAL LANDSCAPE CODES

West Palm Beach, FL

“Single-family dwelling units. For single-family and duplex dwelling units, at least one shade or flowering tree shall be planted for each 1,000 square feet of open space or portion thereof. At least one shrub shall be planted for each 500 square feet of open space or portion thereof. Front yards shall be landscaped to meet the requirements of [section 94-482\(a\)](#).” 94-442

“*Substitution of palm trees.* Palm trees may be substituted for not more than 35 percent of the *shade* or flowering trees required by this article. However, when palm trees are substituted for *shade* trees, three palm trees shall be provided for each required *shade tree*. This 3:1 substitution shall not be required for Royal Palm Trees (*Roystonea* spp.), Senegal Date Palm (*Phoenix reclinata*), Medjool Date Palm (*Phoenix dactylifera*), Bismarck Palm (*Bismarckia nobilis*), and Silver Date Palm (*Phoenix sylvestris*).” 94-442

Palm Beach County, FL

Urban/Suburban Tier: Minimum number: 1 tree per 1,250 sq. ft. of lot size (maximum 15). Minimum height: 12 ft., 2.5” caliper. Palms may not be used in excess of 25% of the total number of required trees. Three palms are required as replacement for one tree. Minimum number of species: 2 (greater number of trees = greater number of species). (Article 7, Chapter C – ULDR)

Boca Raton, FL

“Trees shall be planted at a density of 1 tree per 1,250 square feet of open space provided.” 28-1247

Manalapan, FL

“*Single family.* Each parcel shall contain a minimum of one (1) shade tree and ten (10) shrubs per one thousand (1,000) square feet of lot area or portion thereof, which is not utilized for structures or vehicular use areas. Three (3) palm trees clustered may be substituted in lieu of a shade tree. However, in no case shall palm tree clusters be used to reduce the number of shade trees to less than fifty percent (50%) of the total number of required shade trees on any lot or portion thereof.” 157.75

“F) *Tree species mix.* When ten (10) or more trees are required to be planted to meet the standards of this section, a mix of species shall be provided. The number of species to be planted shall vary according to the overall number of trees required to be planted. The minimum number of species to be planted is indicated in the table hereinbelow. Species shall be planted in proportion to the required mix. This species mix standard shall not apply to areas of vegetation required to be preserved

<i>Required # of Trees</i>	<i>Minimum # of Species</i>
10-15	2
16-25	3
26-35	4

36+	5
-----	---

" 157.75

Naples, FL

No shade tree requirements

Wellington, FL

"Trees. One (1) tree shall be planted or preserved for every one thousand five hundred (1,500) square feet of the gross lot area, excluding areas of vegetation required to be preserved by Section 7.4 and areas left to be undisturbed. Credit for existing trees will be given in accord with [Section 7.3.7](#). The minimum tree and shrub planting standard is exclusive of trees, shrubs or hedges required to be planted in perimeter buffers, however, trees preserved in open common spaces shall receive a credit against the landscape area requirements." 7.3.6

Gulfstream, FL

"The landscape architectural standards have been developed to reinforce the overall character and the image of the town environment.

(C)The correct selection of plant material:

(4)Provides *shade*."70-146

Jupiter, FL

"Promote energy conservation through the creation of shade and reduce heat gain in and on buildings or paved areas;" 23-2

"Plant materials. A minimum of one shade tree, 12 to 14 feet in height, three palm trees, eight to 12 feet of clear trunk, or three accent trees, six to ten feet in height shall be provided for every 250 square feet of foundation planting. Additional plant material such as a combination of mass plantings of shrubs, a minimum of two to three feet in height, or mass plantings of groundcover, a minimum of one-half foot up to two feet in height, and/or accent plants shall also be required to provide a foundation for the building, accent architectural features, and reduce the scale of a building." 23-62

"No more than 50 percent of the total trees required or proposed on-site may be palms (all species). Fifty percent or more shall be native plant material as recognized by the Xeriscape Plant Material Guide I or II, published by the South Florida Water Management District."23-86

Palm Beach Gardens, FL

"Minimum requirements for single-family and duplex residences. Single-family and duplex lots will have a minimum of one tree or two palms and six shrubs per 1,000 square feet of open space or fraction

thereof. A shade tree from the city's preferred tree list is required as a street tree, located within the road right-of-way or within 15 feet of the property line. Street trees are to be replaced if removed for any reason by the landowner." 78-314

Delray, FL

"One shade tree shall be planted for every 2,500 square feet of lot area. Shade trees for single family residences shall be a minimum of 12 feet in height with a five-foot spread at the time of installation. Existing trees preserved on the site with the same specifications as above, may be credited toward this tree requirement" 4.6.16 (H)

MUNICIPAL/COUNTY NATIVE VEGETATION REQUIREMENTS
Beth Dowdle

Brevard - 50% Native vegetation required

- Satisfaction of the landscaping standards shall be achieved through the preservation of existing native vegetation to the greatest extent feasible. When the minimum landscaping standards cannot be achieved through preservation, plantings of new vegetation shall be required to meet the standards.

Dade County - 30% Native vegetation required

Indian River County - 50% Native vegetation required

- Minimum number of species diversity required
- Wide planted buffers between commercial properties & along roadways

Islamorada - 75% Native vegetation required

- The director of planning and development services may reduce the height requirement 50 percent for rare native plant species.

Key Colony Beach - 50% Native vegetation or xeriscape vegetation required

Key West - 70% Native vegetation required

- The natural landscape of the site shall be preserved as much as possible.
- Prior to the issuance of a certificate of occupancy for a new development, the owner/applicant shall remove all nuisance and Invasive vegetation from the site for which a development order or permit is requested.
- The clearing of native vegetation sufficient to create the required landscape screening or portion thereof is prohibited without approval from the city
- Credit shall be granted for trees which are preserved on a site and which meet the tree requirements of any landscaping section of this division

Lee County - 75% Native vegetation required for tree species; 50% Native vegetation required for shrub and groundcover species

Manatee County - 30% Native vegetation required

- Residential Street Trees: Existing native trees should be used to fulfill ordinance requirements when feasible
- Preserve native plant communities is encouraged and required as appropriate
- Right plant in the right place for soil conditions
- Plantings in required landscape areas shall be with plant species that are native and/or naturalized to Florida. All required landscape areas shall retain existing native trees, shrubs, groundcover and grasses to the greatest extent possible. Native plant species typical to the vegetative communities found in non-coastal Manatee County shall be encouraged.

Marathon - 70% Native vegetation required Martin County – 50% Native vegetation required

Monroe County – 70% Native vegetation required

Miami - 30% Native vegetation required

- The right plant in the right place for dry and wet soils
- Reduce negative impact of exotic pest plant species
- Prohibit use of noxious exotic plants which invade native plant communities
- Maximum size of turfgrass lawn area
- One native plant per square foot in retention/detention areas

Ocoee – 40% Native tree required; 40% Native shrubs and groundcover required.

Pasco County – 30% Native vegetation required.

Polk County - Recommends native vegetation and includes native vegetation on the recommended plant list

St. Lucie County - 50% Native vegetation or waterwise landscape required

- Existing, native trees, vegetation and other natural features shall be preserved to the extent practicable.
- Residential: 100% of the planted trees shall consist of native species or waterwise vegetation
- Agriculture/horticulture buildings: 100% of the planted trees shall consist of native species
- Large scale residential and commercial: A minimum of 15% of any existing native upland habitat on the property must be preserved in its natural condition as part of the required 35 percent common open space. For each acre of preserved native habitat above the required minimum 15 percent that is preserved in its original state, credit shall be given at a rate of 150 percent per acre towards the remaining common open space requirement.
- Planned Unit Developments: A minimum of 50% of any existing native upland habitat on the property must be preserved in its natural condition as part of the required open space. For each acre of preserved native habitat above the required minimum 50% that is preserved in its original state, credit shall be given at a rate of 150% per acre towards the remaining open space requirement.
- The preservation of existing native vegetation shall be required where the location of said vegetation is not in conflict with the proposed building or parking areas.