

ORDINANCE 3871

AN ORDINANCE
To Be Entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA, AMENDING THE CITY CODE, SUB-PART B, LAND DEVELOPMENT CODE, AMENDING CHAPTER 138 VEGETATION; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA, that:

SECTION 1. The City Code of the City of Fort Myers, Florida, Sub-Part B, Land Development Code, Chapter 138 Land Use Regulations, is hereby amended in its entirety and attached hereto as Exhibit A to this ordinance.

SECTION 2. Severability. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than that part declared to be invalid.

SECTION 3. Effective Date. This ordinance shall become effective immediately upon adoption.

CHAPTER 138 - VEGETATION

ARTICLE I. - IN GENERAL

Sec. 138-1. - Purpose.

~~The provisions of this chapter for the preservation of existing vegetation and open space, and the installation and maintenance of landscaping and buffer yards, are intended to protect the character and stability of residential, commercial, professional, institutional and industrial areas, to preserve the value of land and buildings of surrounding properties and neighborhoods, to enhance the aesthetic and visual image of the city, to screen harsher urban elements, to reduce noise and glare, to encourage the use and preservation of native plant species, to provide opportunities to save or relocate old growth trees, to improve environmental quality, to promote conservation, and to help ensure the health, safety and welfare of the city's residents.~~

The provisions of this chapter are to establish landscape and open space requirements that enhance the visual quality and aesthetics of the City and protect its citizens through appropriate vegetative screening of differing land uses. This chapter includes provisions for: the preservation of existing vegetation and open space; the installation of landscaping and buffer yards intended to protect the character, stability and value of residential, commercial, institutional, and industrial areas; the enhancement of the aesthetic and visual image of the City in a manner that promotes creative design; the protection or relocation of large, established tree specimens; and the conservation of the natural environmental to protect public health, safety, and welfare.

Sec. 138-2. - General regulations.

- (a) ~~The following regulations of this chapter shall apply to all developments to the maximum extent possible to all developments, excluding single-family and duplex dwellings except as it applied for buffer yard and permitting requirements, and planned unit developments adopted prior to May 16, 2005; developments located in the downtown redevelopment area covered by the Smart Code; and developments located in special development areas that have prior development approvals and/or where other provisions of the growth management code~~ Land Development Code may apply. No existing structures or parking areas shall be required to be altered or moved to meet the provisions of this chapter unless:
- (1) Changes are made to existing structures, which add fifty 50 percent (50%) or more to the gross floor area or exceed fifty 50 percent (50%) of the assessed value of the structure, in accordance with the provisions set forth in Chapter 98.
 - (2) Vehicular use areas are expanded, except for the re-striping and/or resurfacing of lots and drives.
- ~~(b) The parks manager and recreation manager shall be responsible for developing and updating annually, a plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in all other public areas. Such plan shall be presented annually to the city council and, upon~~

~~their acceptance and approval, shall constitute the official comprehensive tree plan for the city.~~

Sec. 138-3. - Open space and indigenous vegetation requirements.

~~Every reasonable effort shall be made in the planning, design and execution of a development to protect, preserve or not destroy or alter natural, historic or archaeological features of the site, mature native trees or other threatened or endangered native vegetation. Alteration of the vegetation or topography that disrupts the surface water or groundwater hydrology, increases erosion of the land, or destroys significant wildlife habitat is prohibited. Significant habitat is defined as that which is critical for the survival of flora or fauna. New development must provide for on-site open space and indigenous vegetation preservation in order to protect natural, historic or archaeological features, mature native trees and threatened or endangered native vegetation. For the purposes of this section, large developments are defined as projects ten acres (10 acres) in size or larger and small projects are those projects under ten acres (10 acres) in size.~~

- (1) *Open space calculations.* Open space includes all areas of natural vegetation or areas replanted with vegetation after construction, such as buffer yards, perimeter plantings, internal plantings, lawns, gardens, etc. Open space may include certain outdoor recreation facilities such as playgrounds, golf courses, nature trails, pedestrian and bikeways, archaeological sites, beach frontage, tennis courts, swimming pools, and other similar open spaces as long as not more than twenty 20 percent (20%) of the area consists of impervious surface. Impervious surface includes areas of rock, gravel, sand, shell, and riprap. ~~Existing or proposed bodies of water, including stormwater management areas, may be used to offset up to a maximum of 20 percent if the shoreline is sodded and a maximum of 35 percent if the shoreline is planted with native wetland plants of the required open space. Areas used for dry retention may count 100 percent toward meeting the open space requirements if planted with vegetation.~~ Buffer yards and landscape areas in off-street parking areas may be used to contribute to the open space requirements.
 - a. Open space in bodies of water. Existing or proposed bodies of water, including stormwater management areas, may be used to offset up to a maximum of twenty percent (20%) of the required open space if at least 80% of the shoreline is sodded. Stormwater management areas may be used to offset a maximum of thirty-five percent (35%) of the required open space if 80% of the shoreline is sodded and planted with native wetland plants.
 - b. Open space in dry detention areas. Areas used for dry retention may count one-hundred percent (100%) toward meeting the open space requirements if planted with water-tolerant vegetation.
 - ~~(2)c.~~ Open space minimum area and widths.
 - a.1. Multifamily residential (~~two~~ three or more family dwellings):
Thirty-five percent (35%) of gross site area set aside as open

space for large developments, and twenty percent (20%) for small developments.

- b.2. Commercial/professional/institutional: Twenty-five percent (25%) of gross site area set aside as open space for large developments, and fifteen percent (15%) for small developments.
- c.3. Industrial/warehouse: Fifteen percent (15%) of gross site area set aside as open space for large developments, and ten percent (10%) for small developments.
- d.4. The average minimum width must be ten feet (10') for all open space areas.
- e.5. The minimum area must be one hundred-eighty 180 square feet (180 SF) for all open space areas.

~~(3)~~(2) *Indigenous vegetation.* Indigenous vegetation shall mean native or naturalized plant material that ~~which~~ originated where it is currently growing and is living naturally. The terms “indigenous” and “native” are referenced interchangeably throughout this code and shall have the same meaning.

a. *Preservation.*

- 1. Large developments, ten acres (10 acres) or larger, with existing indigenous vegetation communities, must provide fifty 50 percent (50%) of their required open space percentage requirement—through the on-site preservation of these communities consistent with this section.
- 2. If ~~the a large~~ development ~~area ten acres (10 acres) or larger~~ does not contain existing indigenous vegetation communities, but does contain existing indigenous trees, then fifty 50 percent (50%) of their required open space percentage requirement must be met through the on-site preservation of the existing native trees consistent with this section.
 - i. Preservation of indigenous tree clusters is preferred over individual tree protection as it pertains to this section. Reasonable efforts to retain individual trees must be made. It is recognized that site design requirements (e.g. fill) may limit the ability to retain some individual trees, and in that case the development services division manager shall determine if those trees are to be removed or relocated.
 - ~~ii. Sabal palms shall be relocated in a horticulturally correct manner, and clustered within open space areas.~~
 - ii.iii. Native trees. Trees (four inch to nineteen-inch diameter breast height (4”-19” DBH) ~~(four inch to 19-inch diameter at breast height)~~ may be relocated to open space areas, when proper horticultural methods

(e.g. root pruning, use of antitranspirants) are utilized to ensure the survivability of the trees.

- iii. Heritage trees. Effort must be made to preserve a heritage tree – a large, native species, such as Live Oak, South Florida Slash or Longleaf Pine, Bald Cypress, etc., that has a twenty-inch or greater diameter at breast height (20" DBH). Removal may be considered after all reasonable options have been investigated to preserve a heritage tree in its existing location.

~~Effort must be made to preserve large, native trees (e.g. Live Oak, South Florida Slash or Longleaf Pine, Bald Cypress, etc.) with minimum twenty inch diameter at breast height (20" DBH). Other native trees not herein listed may be considered as required for preservation. Only after all reasonable options have been investigated to preserve a Heritage tree in its existing location shall removal may be considered.~~

- iv. Replacement of heritage and other existing native trees. If an existing heritage or native tree must be removed from the site then a replacement native tree must be planted within an appropriate open space area of the site. The following criteria applies:

- (a). An existing native tree that is from four ten to nineteen inches diameter at breast height (10"-19" DBH) must be replaced with a minimum fourteen-foot height (14'H) native tree.

- (b). An existing native heritage tree that has a twenty inch diameter at breast height (20" DBH) or greater must be replaced with a minimum twenty-foot height (20'H) native tree.

- ~~iv. Efforts must be made to preserve large, native trees (e.g. Live Oak, South Florida Slash Pine, or Longleaf Pine with minimum 20 inch diameter at breast height. Only after all reasonable options have been investigated to preserve a tree in its existing location shall removal be considered.~~

- ~~v. If an existing native tree must be removed from a site, then a replacement native tree must be planted within an appropriate open space area. An existing native tree from four to 19 inches diameter at breast height must be replaced with a minimum 14 foot height native tree. An existing native tree with a diameter at breast height greater than 20 inches must be replaced with a minimum 20-foot height native tree.~~

- 3. Minimum requirements. The average minimum width of indigenous open space must be twenty feet (20'), with a minimum area of four hundred square feet (400 SF). Open space preservation areas must be designed with adequate widths to preserve and allow for the continued growth and viability of existing native plant communities. Native tree and

preservation areas must be protected during land preparation and construction activities pursuant to sections 138-80 and 138-108(1).

4. All replacement trees are credited towards the required general trees as defined in Section 138-41(e).

b. *Credits.*

1. For all developments requiring indigenous vegetation preservation per this section, ten acres or larger with open space requirements, an incentive is provided to preserve large, contiguous tracts of indigenous communities or indigenous trees. An open space credit for single contiguous preserve areas will be granted per ~~the following~~ Table 1:

TABLE 1: INDIGENOUS VEGETATION CHART

<u>Size of Native/Indigenous Open Space Area</u>	<u>Minimum Width</u>	<u>Credit Granted</u>
One-half to one acre	50 feet	110%
Over one acre to three acres	75 feet	125%
Over three acres or more	150 feet	150%

2. An additional maximum credit of ten percent (10%) will be granted if any of the following are included in the preserve areas:
 - i. Connection to off-site public or private environmental conservation or preserve areas.
 - ii. Upland buffers to natural watershed areas.
 - iii. Preservation adjacent to a roadway for buffering.
 - iv. Restoration of native shrubs, grasses, and/or groundcover plants within the native tree preservation area. A minimum plant size of one gallon (1G), installed three-foot on center (3' OC) throughout the area is required.

- c. *Administrative deviations.* The city—Community Development Director may permit administrative deviations to reduce the minimum ~~fifty~~ 50 percent (50%) indigenous native vegetation requirement to a lower percentage than required in subsection (32) of this section through the Administrative Deviation process set forth in Chapter 98. Existing, approved indigenous preserve areas within planned developments are not eligible for administrative deviations. An administrative deviation will not be issued or approved unless unique conditions or circumstances make the property unusable and unreasonably burdensome. The applicant must provide details of other actions that will be taken to offset the reduction (mitigation). Mitigation must, at a minimum, meet a one

to one ratio of reduction of indigenous area to mitigated area. Mitigation that will be considered includes, but is not limited to:

1. On-site ecological creation/restoration, with long-term management.
2. Purchase of appropriate credits from a permitted mitigation bank or pay for preserving or restoring public-owned land.

d. ~~Indigenous open space requirements.~~

1. ~~The average minimum width of indigenous open space must be 20 feet, with a minimum area of 400 square feet.~~
2. ~~Open space preservation areas must be designed with adequate widths to preserve and allow for the continued growth and viability of existing native plant communities.~~
3. ~~Native tree and preservation areas must be protected during land preparation and construction activities pursuant to sections 138-80 and 138-108(1).~~

Sec. 138-4. - Buffer yard requirements.

- (a) Buffer yards shall be required along the perimeter of the proposed development and are intended to screen the proposed development from adjacent uses and maintain attractive viewsheds and landscaped areas within the City, wherever the proposed development abuts or is across a street or alley from another existing or permitted use. The existing use, or if vacant, the designated land use of the adjacent property shall determine the type of buffer yard required. Where these buffer yard requirements conflict with the street tree requirements on designated corridors, the provisions for the corridor street tree planting program shall take precedence.
- (b) ~~The entire buffer yard shall be maintained as green open space with the required plantings.~~ The buffer yard shall be maintained as pervious open space conducive to the health and survival of all required plantings and other elements of the buffer yard. Buffer yards may contain impervious features and accessory structures limited to signage, and/or fences/walls, so long as they are designed appropriately within the space, and do not overlap into the buffer yard by more than of 25%.
- (c) Buffer yards shall not be located in any portion of an existing or dedicated public right-of-way, private streets, or roadway easements. A maximum of fifty percent (50%) of the ~~Buffer yards may overlap up to a maximum of 50 percent of the width of any~~ with a stormwater retention area/drainage easement. If buffer yard planting is proposed within the overlap area of a stormwater retention area/drainage easement, then the tree and shrub types selected must be tolerant of wet soils. Buffer yards greater than five feet (5') in width may overlap up to a maximum of fifty 50 percent (50%) of the required buffer yard width into any public utility easement. No required planting shall be allowed in the overlap area, with the exception of ~~sed~~ turf grasses or other ground cover. Maintenance of required buffer yards and landscaped areas or restoration/replacement of vegetation damaged during maintenance of utilities shall be the responsibility of

the property owner or any consenting grantee. If the plant materials die, they shall be replaced within thirty (30) 30 days of receiving notice issued by the city.

- (d) A minimum six-foot high (6'H) and maximum eight-foot high (8'H) solid, ~~continuous masonry~~ wall, set a minimum of ~~two~~ ten feet (10') from the property line, may be used to ~~meet~~ off-set the minimum required width of the buffer yard ~~requirements, when reviewed and approved through the administrative deviation~~ alternative landscape betterment plan process set forth in section 138-6. Buffer yard trees and shrubs must be located along the ~~residential~~ side of the wall that is exterior to the project. Where walls and or fences are installed in buffer yards, all required plantings must be located on the external side of the wall facing the abutting properties and/or roadways.
- (e) Berms and a combination of walls and berms may be used in buffer yards, but not to replace the required number of trees and shrubs within the buffer yard.
- (f) ~~The following~~ Table 2 identifies five different buffer yard types and the minimum number of trees and shrubs required per ~~100 linear feet~~ one hundred linear feet (100 LF) of the required buffer yard.

TABLE 2: BUFFER YARD TYPES

Types	A	B	C	D	E
Minimum widths	10 feet	15 feet	20 feet	5 feet	~~40~~ <u>30</u> feet
Number of shade trees ⁽¹⁾	4	4	5	4	10
Number of shrubs	33	66	66	33	66

Footnotes:

- (1) The clustering of ~~Code~~-required ~~shade~~-trees is encouraged in buffer yards. Where palm trees are permitted in lieu of shade trees in accordance with this code, clustering is required, and the “soldiering” of plant materials is prohibited.
- (g) ~~The following~~ Table 3 identifies the minimum buffer yard required based on the type of land use abutting the proposed development, or the land use located across a street, easement, or other such similar improvement abutting the site. The letter in the matrix refers to the type of buffer yard required as indicated in ~~the preceding~~ Table 2.

TABLE 3: MINIMUM BUFFER YARD REQUIRED

Proposed Development	Abutting Development or Land Use						
	Single/ Two Family ⁽¹⁾	Multi-Family	<u>Professional Office</u>	Commercial/ Institutional	Industrial/ Warehouse	Recreation ⁽³⁾	Right-of-way
Single/Two Family ⁽¹⁾	D	A	B	B	C	A	B
Multifamily/ Townhome	<u>A/B⁽⁴⁾</u>	D	A	B	B	A	B
<u>Professional Office</u>	B	A	~~D~~ <u>N/A</u>	~~A~~ <u>N/A</u>	~~A~~ <u>N/A</u>	A	B
Commercial/ Institutional	C	C	~~A~~ <u>N/A</u>	~~D~~ <u>N/A</u>	~~B~~ <u>N/A</u>	A	B ⁽⁵⁾
Industrial/ Warehouse ⁽²⁾	E	E	B	~~C~~ <u>B</u>	~~D~~ <u>N/A</u>	E	B ⁽⁵⁾
Recreational	~~A~~ <u>C</u>	~~A~~ <u>B</u>	A	A	A	~~D~~ <u>N/A</u>	B
Right-of-way	B	B	B	B	B	B	~~D~~ <u>N/A</u>

Footnotes:

- (1) New subdivisions only. “Single/Two Family” shall include single-family detached, zero lot line, single-family attached, two-family and duplex dwelling types.
 - (2) When total site acreage is less than one acre, a minimum six-foot high ~~(6'H)~~ and maximum ~~eight-ten-foot high (10'H)~~ solid, continuous masonry wall, set a minimum of ~~two ten feet (10')~~ from the property line, can be used in lieu of the ~~4030-foot wide (30'W)~~ buffer requirement. The area between the property line and the outside face of the wall must ~~still~~ be planted per Type E buffer requirements. Palm trees are permitted in lieu of shade trees, and must be clustered at a minimum ratio of three (3) palms to one (1) shade tree.
 - (3) Refers to active recreational uses, such as public parks, sports fields, and stadiums. Where new development abuts publicly-owned conservation lands, a Type “A” buffer shall be required.
 - (4) Multi-family and townhomes that are 35 feet in height or less may provide a Type “A” buffer where adjacent to single- and two-family dwelling types. Multi-family and townhomes that are 35 greater than 35 feet in height must provide a Type “B” buffer where adjacent to single and two-family dwelling types.
 - (5) A Type “C” buffer shall be required when a commercial or industrial/warehouse use abuts a right-of-way with an adjacent residential zoning.
- (h) Alternative Landscape Betterment Plan. The Community Development Director may permit alternatives to the requirements set forth in this section through the use of an alternative landscape betterment plan where the Applicant demonstrates that the intent of this chapter can be more effectively accomplished. The proposed landscape betterment plan must demonstrate compliance with the following:

- (1) The plan may not deviate from the minimum open space requirements of this chapter.
- (2) The plan must be labeled as an alternate landscape betterment plan and delineate and identify all deviations to the requirements of this division. The plan must also include a narrative as to what has been added to the plan to make it better than the requirements being deviated from.
- (3) The plan must demonstrate a betterment in the form of either; the use of larger trees substituted to reduce the minimum number of trees required; or the relocation of required trees throughout the site so there is no net reduction in the number of required plantings. The betterment plan must demonstrate:
 - a. The proposed size and number of substituted trees.
 - b. Similarity to native vegetation on site or in the immediate vicinity.
 - c. Appropriate plant grouping for water needs.
 - d. The amount of immediate increase in site canopy.
 - e. The use of larger trees that are at least sixteen feet in height (16'H) or palms that are least twelve feet of clear trunk (12'CT) must be used in the deployment of the plan.
 - f. The use of a fully hydro-zoned irrigation system must be used in the deployment of the plan.
 - g. All easements to ensure no conflicts with proposed or existing improvements.
 - h. The plan must designate the botanical name (genus and species) and location of all plant material to be installed.
- (4) The proposed alternate landscape betterment plan shall not be approved if the Community Development Director determines that the intent of the minimum requirements of these provisions is not being exceeded.

Sec. 138-5. - Preservation and maintenance.

Planted areas, including but not limited to trees, shrubbery, lawn, and groundcover required by this Code, shall be maintained, fertilized and irrigated in perpetuity by the owner of the property to the extent that healthy plant life is sustained or, if needed, removed and replaced to keep the area in its original landscaped condition. At the minimum, the subject property must be maintained in full compliance of the approved site work permit issued for the property. ~~For multifamily and commercial developments, a maintenance contract, acceptable to the city, shall be provided by the owner to the city, which guarantees maintenance of all vegetation on site in perpetuity.~~ The property owner shall agree to regularly and systematically, not less than three (3) times per month, maintain all vegetation including grass and all plantings; and to replace any vegetation which becomes injured or damaged with similar vegetation within ~~30~~ thirty (30) days of receiving notice issued by the city. All landscapes must be kept free of refuse, debris, disease, pests, and weeds. Ongoing maintenance to prohibit the establishment of prohibited invasive exotic species is required.

ARTICLE II. - LANDSCAPING

Sec. 138-41. - When required.

- (a) ~~New and existing~~ Parking areas. This section shall apply to all new and existing parking and vehicular use areas that are to be expanded, except when the proposed work is limited only to the re-striping and/or resurfacing of lots and drives.
- (1) All parking areas, compounds and other vehicular use areas where vehicles will be moved, displayed, sold, serviced, loaded or unloaded, containing more than ~~4,000 square feet~~ four-thousand square feet (4,000 SF) in area, shall have ten percent (10%) minimum of the gross area, or more, developed as landscaped areas.
 - (2) A minimum five-foot wide (5') landscaped area with shrubs installed at one (1) shrub for every ~~fifteen~~ 15 square feet (15 SF), not to exceed a mature or maintained height of three feet (3') shall be required when any parking area abuts any adjacent property, street right-of-way, roadway, or street easement.
 - (3) A minimum eight-foot wide (8') curbed landscaped island or peninsula shall be required for a maximum of every one hundred ~~100~~ linear feet (100 LF) of parking area. The minimum eight-foot width (8') shall be measured between inside edges of curbs. There shall be a minimum of one (1) tree and ten (10) shrubs for every two-hundred ~~200~~ square feet (200 SF) of parking islands, peninsulas and medians. All parking spaces must be located within a one hundred ~~100~~-foot radius (100' R) of a circle drawn from the center of a tree that is planted in a pervious island, peninsula, or median. The island or peninsula must be expanded to accommodate all required plantings where fire hydrants or other above ground structures and appurtenances are co-located in the area.
 - (4) Landscaped areas shall be required at the ends of parking rows except when the ends of parking rows abut a green area/landscaped area. In that instance, the ends of parking rows do not have to be curbed. The design of these landscaped areas at the ends of parking rows shall be based on the type of parking to be utilized and other Code requirements.
 - (5) Areas of less than four thousand ~~4,000~~ square feet (4,000 SF) that are enlarged at a later time to more than four thousand ~~4,000~~ square feet (4,000 SF) shall comply with the requirements of this section for both the old and new portions.

- (6) Areas that exceed ~~ten-thousand~~ 10,000 square feet (10,000 SF) shall have ~~one-half~~ not less than fifty percent (50%) of their required ~~percentage~~ area developed in islands located in the interior of the paved area.
 - (7) The front of a vehicle may overhang any landscape area a maximum of two feet (2'), provided the area is protected by vehicle wheel stops or curbing. Two feet (2') of such landscaped area or walkway may be part of the required depth for abutting parking spaces.
 - (8) Divider medians must be a minimum of ten feet (10') in width, contain a minimum of one (1) tree per ~~forty~~ 40 linear feet (40 LF). The minimum ten-foot width (10') shall be measured between inside edges of curbs. Clustered canopy trees shall be spaced no more than ~~sixty~~ 60-feet (60') apart.
- (b) *Lawn and ground cover areas.*
- (1) All lawn areas must be sodded or xeriscaped in accordance with South Florida Water Management District criteria which includes landscaping, improvement of soil, efficient irrigation, appropriate use of turf, use of drought tolerant plants, use of mulches and maintenance of landscaping. Rock, gravel, sand, shell, or paving shall not substitute entirety for ground cover or lawn and shall be limited to twenty 20 percent (20%) of the total area.
 - (2) When berms are utilized as part of the required landscaping, maximum slopes of four to one (4:1) shall be used. Maximum slopes of three to one (3:1) shall be used in nonseawall areas and retention areas.
 - (3) Lawn may not be installed on any slope greater than three to one (3:1) but must have a permanent herbaceous groundcover with erosion control fabric. Complete slope coverage is required within one (1) year after planting. The rate of growth and the ultimate size of the groundcover shall direct the plant type and spacing selected at time of installation.
- (c) *Building perimeter planting.* Perimeter planting areas may be used to contribute to the open space requirements. Landscaping for new developments must include, in addition to the landscaping required for buffer yards, parking, and on-site areas, as follows:
- (1) All professional, commercial, and industrial/warehouse developments. Ten percent (10%) minimum of the proposed building gross first floor area must be provided for the building perimeter planting area. This planting area shall:
 - a. Abut all sides of the building, not including the garage bay or loading area.
 - b. Be a minimum of five feet (5') wide.
 - c. Have shrubs and groundcover plants with a minimum ~~50-percent~~ coverage of area at time of planting spacing of three feet on center (3' OC) for shrubs and two feet on center (2' OC) for ground covers at the time of planting.

- d. Not have more than ten percent (10%) of the area planted with turf grass.
 - e. Not contain any water management areas.
 - f. Not include any impervious surfaces used to meet the minimum area requirements, although impervious surfaces may be located within building perimeter areas.
 - g. Not be used for commercial purposes, such as sales or display.
- (2) All large development commercial centers, ten acres (10 acres) or larger. Five percent (5%) of the total vehicular use area must be developed as an enlarged planting area within the front of the building, and be in addition to the required building perimeter and parking planting areas. It is not a requirement that this area abut the front of the building, but must be in general proximity to the front of the building.

(d) *Littoral planting.*

- (1) The minimum required number of native wetland herbaceous plants is one (1) plant per linear foot of lake shoreline, as measured at the control elevation water level. Native wetland trees or shrubs may be substituted for up to ~~twenty-five~~ 25 percent (25%) of the total number of herbaceous plants required. One (1) tree may be substituted for every one hundred (100) herbaceous plants or two (2) shrubs may be substituted for every ten (10) herbaceous plants.
- (2) Plants shall be installed in clusters around the lake perimeter. Placement of clusters at the inlet and outfall areas is encouraged. Clusters must contain a minimum of ~~twenty-five (25)~~ 25 plants within a ~~50-square-foot area~~ one-hundred square foot (100 SF) area.
- (3) A minimum of four (4) species of plants must be planted per project site lake or wet retention system. The minimum size shall be a two-inch container or liner (2" L).
- (4) Sodding or mulching of native wetland plant materials is allowable in lieu of containers or liners, as long as the established plantings are at the minimum required density after one (1) year of installation.
- (5) Shorelines must be sinuous, with curving and irregular edges. Slopes shall vary, so as to resemble the shorelines found on natural bodies of water.

(e) General tree requirements. All developments must provide the following minimum number of trees, in addition to the landscaping required for parking areas and buffer yards. Existing water bodies and detention areas planted with appropriate native herbaceous vegetation within the development will not be included in the calculation for general tree requirements.

- (1) Residential developments, including recreational vehicle developments, must provide one (1) tree per 3,000 square feet of development area. One (1) tree per residential lot must be provided, with all other required trees placed in commonly maintained areas of the development.
- (2) Commercial developments must provide one (1) tree per 3,500 square feet of development area.

- (3) Industrial developments must provide one (1) tree per 5,000 square feet of development area.
- (4) Credits. Existing indigenous native trees preserved in place, which have a trunk diameter of four inches or greater measured at four and one-half feet above the ground (DBH) will receive a credit of five (5) trees against the general tree requirements. Native palms preserved in place that are eight (8) feet or greater from ground level to base of fronds, will receive a credit of three (3) trees. Credits will apply only when the trees are labeled as protected-credit trees on the landscape plans.
- (5) Exemptions. Single-family developments within conventional zoning districts are exempt from these requirements but must provide a minimum of one (1) tree per lot.

Sec. 138-42. - Plant material standards.

- (a) *Quality.* Plant materials used to meet the requirements of this division must meet the standards for Florida No. 1 or better, as provided in Grades and Standards for Nursery Plants, Parts I and II, Department of Agriculture, State of Florida (as amended), latest edition. Root ball sizes on all transplanted plant materials must also meet state standards.
- (b) *Native varieties.* At least seventy-five 75 percent (75%) of the trees and fifty 50 percent (50%) of the shrubs used to fulfill requirements of this chapter must be Florida native species.
- (c) *Trees and palms.* Trees must be a minimum of ten feet in height (10'H) after at time of installation, have a ~~three-inch caliper~~ two-inch caliper (2" CAL) measured at ~~12 inches~~ twelve inches breast height (12" DBH) above grade, and a four-foot wide canopy spread (4'S). Palms must have a minimum of ten-foot clear trunk (10'CT) at time of planting. Trees located along arterial roads must have a minimum three-inch caliper at 12 inches above grade at the time of installation. Palms must have a minimum of ten feet of clear trunk after planting. Trees adjacent to walkways, bike paths and rights-of-way shall have a minimum of eight feet of clear trunk after planting. Trees having an average mature spread or crown less than 20 feet a twenty-foot spread (20'S) at maturity may be substituted by grouping the appropriate amount of the same species, so as to create the equivalent of a minimum twenty-foot spread (20'S) in the in the combined grouping of trees 20-foot crown spread. Trees adjacent to walk and bikeways must be maintained with a minimum of eight feet of clear trunk (8'CT). These requirements shall not supersede those for street trees listed in section 138-72.
- (d) *Shrubs.* Shrubs must be a minimum of twenty-four 24 inches in height (24"H) at time of planting installation, a minimum of a three-gallon (3G) size container and be spaced a minimum of eighteen inches on center (18" OC) to a maximum of thirty-six inches on center (36" OC) 18 to 36 inches on center. Shrubs must be maintained in perpetuity at a height no less than thirty-six inches in height (36" H), except in cases of cold weather or force majeure. Shrubs used for screening must be at least 36 inches in height by one year after installation, and maintained in perpetuity at said height. Shrubs shall be maintained at a lower height to allow

visibility at intersections. Where larger shrubs are required in specific buffer yards or by zoning conditions, spacings appropriate to those size of plants must be used to maintain the intended minimum densities. For instance, ten gallon (10G) or larger shrubs may be planted forty-eight inches on center (48" OC).

- (e) *Mulch.* A minimum ~~three-two-inch~~ (2") thick layer of mulch, measured after watering-in, shall be placed around all newly installed trees, shrubs, and groundcover plantings. All landscape areas not receiving a vegetative cover must be mulched. Each tree must have a ring of mulch not less than a twenty-four 24 inch radius (24" R) beyond the outside dimension of its trunk in all directions. The use of cypress mulch and artificially colored mulch is discouraged.

Sec. 138-43. - Plant material installation and maintenance.

(a) *Installation.*

- (1) All landscape materials must be installed using industry recognized horticultural practices.
- (2) Plant materials must be installed in soil conditions that are conducive to the proper growth of the plant material. Amendments, including planting mix and fertilizer shall be added to planting pits. ~~Limerock located within planting areas must be removed and replaced with native or growth-sustaining soil before planting.~~ All fertilizer usage must comply with the City of Fort Myers best management practices set forth in Ordinance No. 3489.
- (3) Mature plant size must be considered to minimize obstruction of views, signage, lighting, interference with power lines, building roofs, and circulation. Trees may not be located where the roots will interfere with site drainage and subsurface utilities, or where the canopy will require frequent pruning to avoid obstruction or interference. Only trees less than twenty 20 feet in height (20' H) at maturity may be used directly adjacent to overhead power lines.
- (4) Trees and shrubs shall be installed at the midpoint of the width of the buffer yard, where applicable.
- (5) ~~The width of a planting area~~ Planting areas shall not be less than five-feet (5') in width.
- (6) All plants used must be installed using xeriscape principles. Xeriscape principles include water conservation through drought-tolerant landscaping, use of appropriate plant material, mulching, and reduction of turf areas.
- (7) Trees or shrubs designated for buffer yards may not be located within any easement, ~~or right-of-way,~~ except as provided for in Section 138-4 of this chapter.

- (8) A minimum safe sight distance triangular area must be established wherever a drive intersects a right-of-way or when a property abuts the intersection of two or more rights-of-way. Vegetation installed in said area must be planted and maintained in a way that provides unobstructed visibility at a level between ~~thirty~~ 30 inches (30") and eight feet (8') above the crown of the adjacent street. Landscaping must be in accordance with the roadside recovery area provisions of the State of Florida, Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance of Streets and Highways (FDOT Green Book).
 - (9) All trees and palms must be staked ~~or~~ and guy wired. Trees must have double strand wire ties or guys, 12-gauge minimum thickness, with two-ply rubber hoses used around the trunk and guys staked at the ground. Tree stakes are to be lodge poles or steel tee posts. Palms must have burlap wrap to protect the trunk, with a ~~steel banded~~, two-inch by four-inch (2" x 4") wood battens attached to two-inch by four-inch (2" x 4") wood braces staked at the ground.
- (b) *Maintenance.*
- (1) The owner of the property or the owner's agent shall be responsible for maintaining the required landscaping in a healthy and vigorous condition at all times. Tree and palm staking and guying may be removed ~~12~~ twelve (12) months after installation depending on the stability of the plant. Stakes, ties, and guys can remain longer, if necessary, to prevent against wind damage, but not so long as to cause girdling of the trunk. All landscape areas must remain free of debris, refuse, disease, pests, and weeds.
 - (2) Vegetation must be pruned to promote healthy, uniform, and natural growth, except where necessary to promote health, safety, and welfare. ~~Pruning must be done by a state-certified arborist, and in accordance with industry recognized horticultural practices. Landscape management must be in accordance with "American National Standard for Tree Care Operations - Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices (Pruning) (A300, Part 1)" by the American National Standard Institute, and "Best Management Practices: Tree Pruning" by the International Society of Arboriculture (ISA).~~ Trees must not be severely pruned so as to reduce the number of times they require pruning or to permanently maintain growth at a reduced height or spread. Pruning must not interfere with the design intent of the original installation. Severely pruned trees must be replaced by the property owner within ~~30~~ thirty (30) days of receiving notice issued by the city. Replacement trees must meet tree size requirements set forth in this code or by the approved development order or zoning conditions, whichever is more stringent. A plant's growth habit must be considered in advance of conflicts which might arise (i.e. views, signage, overhead power lines, lighting, circulation, sidewalks, buildings, and similar conflicts).

Sec. 138-44. - Plans to be submitted.

- (a) *Landscape plan.* A detailed plan, sketch, or layout of any area mentioned above must be included as part of the construction drawings submitted for a building permit. The plan must be a minimum of one inch to fifty-foot scale (1" = 50') and be prepared by and bear the name and seal of a landscape architect registered in the state. The same landscape architect that seals the plans must have been involved their preparation. The plan must include the necessary narrative, symbols, and calculations to demonstrate that the proposed landscaping is in compliance with requirements of this Code. Such plan, sketch, or layout shall show title and address of the project, project owner's name, scale, north arrow, easements, site utilities, vehicle use areas, location and dimensions of all entrances and exits, the manner in which the open space area is to be developed as landscaped areas and the number, size, and type of trees, shrubs, and groundcover to be planted, preserved or relocated in such areas. Details shall be provided for planting, staking, and existing vegetation protection during construction. Parking lots shall show the way vehicles are to be parked. Site areas of one acre or less, or total building square footages of 10,000 square feet or less, do not require plans to be prepared by and bear the name and seal of a landscape architect.
- (b) *Irrigation plan.*
- (1) A detailed plan, sketch, or layout of any area mentioned above must be included as part of the construction drawings submitted for a building permit. The plan must be a minimum of one inch to ~~fifty~~50-foot scale (1" = 50') and be prepared by and bear the name and seal of a landscape architect registered in the state. The same landscape architect that seals the plans must have been involved in their preparation. Such plan, sketch, or layout shall show title and address of the project, project owner's name, scale, north arrow, easements, location and dimensions of all entrances and exits, necessary sleeves, moisture (rain) sensor, automatic controller, water meter or well, backflow prevention device and all necessary lines, valves, and spray heads. Details shall be provided for the installation of all equipment. The irrigation system shall be designed to avoid the application of water to impervious surfaces, adjacent properties, and existing native vegetation. Site areas of one acre or less, or total building square footages of 10,000 square feet or less, do not require plans to be prepared by and bear the name and seal of a landscape architect. Site areas of one acre or less, or total building square footages of 10,000 square feet or less, do not require plans to be prepared by and bear the name and seal of a landscape architect.
- (2) The requirement for an irrigation plan can be met through the addition of notes or drawings on the landscape plan sheet. Notes must include the type of automated irrigation system proposed, the installation of a moisture (rain) sensor located so that it will receive direct rainfall, the source of water and use of a backflow prevention device, if required, and that the irrigation system has been designed to eliminate the application of water to impervious areas, adjacent properties, and existing native

vegetation. Sleeves are required for irrigation lines to be located under paved areas and must be shown on the landscape and grading/paving plans.

Sec. 138-45. - Landscape certificate of compliance.

~~The~~ A Florida licensed landscape architect must inspect and certify in writing that all open space areas, landscaping, and irrigation systems are in substantial compliance with the approved development order. If minor changes are made to the landscape plan that do not affect the requirements of this section, a record set of landscape and irrigation plans may be submitted as an "as-built" as part of the required certification held by the city. An "as-built" landscape or irrigation plan, highlighted with any major changes from the original permitted set of plans, must be included when the written certification is submitted to the city. Projects not requiring plans prepared by a licensed landscape architect may be certified by the project's Professional Engineer.

Sec. 138-46. - Completion.

The required planting shall be completed within ~~60~~ sixty (60) days subsequent to starting work on any area required by this article to be landscaped.

Secs. 138-47—138-70. - Reserved.

ARTICLE III. - TREES

DIVISION 1. - GENERALLY

Sec. 138-71. - Compliance required.

It shall be unlawful to cut down, damage, poison, or in any other manner destroy or cause to be destroyed any tree as covered by the terms of this article, except in accordance with all of the provisions of this article.

Sec. 138-72. - Street tree requirements.

- (a) All new projects ~~streets~~ constructed, along streets listed in subsection (e), must be planted with appropriate street trees that enhance the city's streetscapes and do not conflict with required infrastructure in the right-of-way. The requirements in subsection (e) supersede the buffer requirements in Section 138-4.
- (b) Owners of property fronting any thoroughfare listed below shall plant street trees on such property at the time this property is developed or earlier. Each property owner must maintain these trees and replace these trees if they die within ~~30~~ thirty (30) days of receiving notice issued by the city. Trees shall be planted in accordance with these requirements in the manner assigned.
- (c) The trees shall be set back outside the existing or future right-of-way line as presented on map G of the comprehensive plan, so that the trees are planted on private property in a row facing the roadway. Setbacks shall be as near to the right-of-way line as the following requirements and standards allow. Setbacks

and spacing arrangements between single trees and/or clusters of trees shall, as much as practical, be consistent with trees previously planted along other properties on the same street.

(d) The following standards for street tree planting shall apply:

- (1) The number of trees to be planted shall be the front footage of the property divided by the spacing requirement indicated below for the street that the property fronts on.
- (2) The location of trees calculated above shall be altered to fit the clearance suggestions below and shall be consistent with trees, if any, previously planted along the same street.
- (3) Sufficient clearance (five feet (5') minimum suggested as a guide) from berm or curb, and sidewalk or other pavement with the use of root barriers as set forth in subsection (8) below.
- (4) Sufficient clearance from the point of nearest intersecting curbs or curb lines to allow for minimum sight distance applicable to the roads involved.
- (5) Sufficient clearance (ten feet (10') minimum suggested as a guide) from fire hydrants.
- (6) Sufficient clearance (30 feet suggested as a guide) from any overhead utility wire, pole or building. To avoid conflicts with overhead utility lines, only trees less than fourteen feet (14') in height at maturity and shrubs may be planted within twenty feet (20') of an overhead utility/power line. All other trees must be setback a minimum of thirty feet (30') from the overhead utility/power line. Variances or deviations from this subsection are prohibited.
- (7) Sufficient clearance (ten feet (10') minimum, suggested as a guide) from any underground utility line ~~or culvert~~.
- (8) An approved root barrier system shall be installed where street trees are planted closer than ten feet (10') to a sidewalk, underground utility or paved area with no curbing, or curbing which extends less than eighteen inches (18") below grade. This requirement may be waived where the registered landscape architect demonstrates the tree specimen will not interfere with infrastructure at full maturity.
- (9) Street trees may not be located in any utility easement or right-of-way, unless a written statement is submitted from the entity holding the beneficial interest in the easement or right-of-way is provided to the City specifically stating that the entity has no objection to the landscaping and, that the proposed landscaping will not interfere with the long-term maintenance of the infrastructure within easement area. The written statement by the applicant is subject to the review and approval by the Public Works Director or designee.

(10) All tree heights and widths shall be taken from the maximum amount of average growth, all tree caliper measurements shall be taken at breast height (12" DBH).

(e) Standards for specific corridors ~~areas~~ shall be as follows:

- (1) Cleveland Avenue from the Caloosahatchee River to the city limits:
 - a. Tree types: Royal Palm (Roystonea elata) ~~trees 14 foot overall height, five feet of greywood, installed on 15 foot to 20 foot centers.~~
 - b. Spacing: Royal Palms installed on fifteen to twenty-foot centers (15'-20' OC) continuous.
 - c. Minimum size at planting: Royal Palms at fourteen feet overall height (14' OA) with a minimum of five feet of grey wood (5' GW).
- (2) Colonial Boulevard from McGregor Boulevard to Fowler Street:
 - a. Tree types: ~~Six~~ Royal Palms (Roystonea elata) alternated with ~~one Dwarf~~ Royal Poinciana (Delonix regia).
 - b. Spacing: ~~Six (6)~~ Royal Palms twenty-five feet on center (25' OC) ~~25 feet apart~~, alternated with ~~a single one (1)~~ Royal Poinciana twenty-five 25 feet (25') from palms.
 - c. Minimum size at planting: ~~Palms ten feet high with eight inch minimum to 20 inch maximum greywood. Poinciana ten to 12 feet high with three inch to four inch caliper at 12 inches from base of trunk.~~ Royal Palms at fourteen feet overall height (14' OA) with five feet of grey wood (5' GW). Royal Poinciana planted at twelve feet to fourteen feet in height (12'-14'H) with a five-foot spread (5'S) and a two-and-a-half-inch caliper (2"-1/2 CAL).
- (3) Colonial Boulevard, from Fowler Street to Interstate 75:
 - a. Tree types: Washingtonia Palms (Washintonia robusta) alternated with Live Oak (Quercus virginiana).
 - b. Spacing: Two (2) clusters of Washingtonia Palms, one (1) cluster with five (5) triangular spaced trees and one (1) with seven (7) triangular spaced trees; palms installed ~~12 feet~~ twelve feet (12') apart with palm clusters ~~40~~ forty feet on center (40' OC); alternate three (3) Live Oaks ~~50 feet~~ fifty feet (50') apart, ~~25 feet~~ twenty five feet (25') from the palms and then repeat palm clusters.
 - c. Minimum size at planting: Palm clusters at staggered heights between ten feet and ~~14 feet (overall height)~~ and fourteen feet in overall height (10'-14' OA). Live Oaks ~~ten to 12 feet high~~ at ten feet to twelve feet in height (10'-12'H) with a five-foot spread (5'S) and a ~~with three inch to four inch caliper at 12 inches from base of trunk.~~ two-and-half-inch caliper (2-1/2" CAL).
- (4) Colonial Boulevard, from Interstate 75 to Lee Boulevard and the city limits:
 - a. Tree type: Jacaranda acutifolia.
 - b. Spacing: Fifty feet on center (50' OC) ~~apart.~~
 - c. Minimum size at planting: ~~Ten to 12 feet high with three inch to four inch caliper at 12 inches from base of trunk.~~ Jacaranda

planted at twelve to fourteen feet in height (12'-14'H) with a five-foot spread (5'S) and a two-and-a-half-inch caliper (2-1/2" CAL).

- (5) Dr. Martin Luther King, Jr. Boulevard from Cleveland Avenue to Michigan Avenue:
- a. Tree types: Royal Palms ten feet to 12 feet staggered heights, two feet to three feet greywood on 40 foot centers. Royal Palm (Roystonea elata) alternating with either Glaucus Cassia (Cassia surattensis) or Silver Buttonwood (Conocarpus erectus) or Orange Geiger (Cordia sebestena)
 - b. Spacing: Grape Myrtle six feet clear trunk, tree standard, three per cluster 12 feet apart with clusters on 40 foot centers equidistant between each palm. Royal Palms in staggered clusters of three (3) spaced twelve feet (12') apart. Royal Palms clusters forty-feet (40') apart. The Glaucus Cassian/Silver Buttonwood/ or Orange Geiger, which ever selected, shall have three (3) trees per cluster at twelve feet on center (12' OC).
 - c. Minimum size at planting: Royal Palms staggered at twelve to fourteen-foot overall height (12'-14' OA) with two to three feet of grey wood (2'-3'GW). Glaucus Cassian/Silver Buttonwood/ or Orange Geiger at twelve feet to fourteen feet in height (12'-14'H) at a tree standard, single of multi trunk with a five-foot spread (5'S).
- (6) Dr. Martin Luther King, Jr. Boulevard from Michigan Avenue to Interstate 75:
- a. Tree types: Paurotis Palm (Accoelorrhaphe wrightii) alternating with Washingtonia Palm (Washingtonia robusta) and Cassia (Senna surratetensis). Paurotis Palms five to seven stems, ten feet to 15 feet staggered heights, three per triangular spaced cluster ten feet apart, with clusters spaced 40 feet from Cassia clusters.
 - b. Spacing: Paurotis Palms three (3) per triangular cluster spaced ten feet (10') apart. Washingtonia Palm 12 feet to 20 feet greywood trunk, staggered heights, seven (7) per triangular spaced cluster 12 twelve feet (12') apart, with clusters spaced 50 fifty feet (50') from Cassia clusters. Cassia planted in three (3) per triangular spaced cluster with each twenty-five feet (25') apart.
 - c. Minimum size at planting: Cassia ten feet to 12 feet high with three-inch to four inch caliper at 12 inches from base of trunk, three per triangular spaced cluster 25 feet apart, with clusters spaced equidistant between alternated Washingtonia and Paurotis Palm clusters. Paurotis palms five to seven stems (5-7) ten to fifteen feet in overall height (10'-15' OA). Washingtonia Palms at sixteen feet overall height (16' OA). Cassia trees at twelve feet to fourteen feet in height (12'-14'H) with a five-foot spread (5'S) and a two-and-a-half-inch caliper (2-1/2" CAL).
- (7) Dr. Martin Luther King, Jr. Boulevard from Interstate 75 East on State Road 82 to the city limits:

- a. Tree types: Sabal Palms (Sabal palmetto) and Live Oak (Quercus virginiana). ten feet to 20 feet staggered heights in triangular spaced clusters of five, ten feet apart, with clusters 20 feet from oaks.
 - b. Spacing: Sabal Palms in clusters of five (5), eight to ten feet on center (8'-10' OC). Live Oaks ten feet to 12 feet high with three-inch to four-inch caliper at 12 inches from base of trunk, three (3) per triangular cluster 40 forty feet (40') apart, twenty 20 feet (20') from palm clusters.
 - c. Minimum size at planting: Sabal Palms at twelve to twenty feet of clear trunk (12'-20' CT) with at least two feet (2') of stagger between each palm. Live Oaks at twelve feet to fourteen feet in height (12'-14'H) with a five-foot spread (5'S), and a two-and-half-inch caliper (2-1/2" CAL).
- (8) Edison Avenue from Jacksonville Street to the city limits:
 - a. Tree types: Five Foxtail Palms (Wodyetia bifurcata) alternated with one Gumbo Limbo (Bursera simaruba).
 - b. Spacing: Five (5) Foxtail Palms spaced 15 fifteen feet (15') apart; alternated with one (1) Gumbo Limbo spaced 20 twenty feet (20') from palms.
 - c. Minimum size at planting: Gumbo Limbo twelve feet to 12 fourteen feet high in height (12'-14'H) with a five foot spread (5'S), and three-inch to four-inch a two and half inch caliper (2-1/2" CAL) at 12 inches from base of trunk; Foxtail Palms each cluster consisting of one (1) at 16 feet to 18 feet ten to twelve foot clear trunk (10'-12' CT), and two (2) at 12 feet to 14 feet fourteen to sixteen to fourteen foot clear trunk (14'-16' CT), and two (2) at eight feet to ten feet overall height six to eight foot clear trunk (6'-8' CT).
- (9) Fowler Street from the Caloosahatchee River to Cleveland Avenue Colonial Boulevard:
 - a. Tree type: Seven Mahogany (Swietenia mahagoni) trees alternated with three Sabal Palms (Sabal palmetto).
 - b. Spacing: Seven (7) Mahogany trees planted twenty-five 25 feet (25') apart; three (3) Sabal palms planted ten feet (10') apart and 25 twenty-five feet (25') from Mahogany trees.
 - c. Minimum size at planting: Mahogany trees ten feet to twelve feet to 12 fourteen feet high in height (12'-14'H), with a five-foot spread (5'S), and a with three-inch to four-inch two- and half-inch caliper (2-1/2" CAL) at 12 inches from base of trunk. Each Sabal palm cluster shall consist of one (1) palm at 16 feet to 18 feet sixteen to eighteen-foot clear trunk (16'-18' CT), one (1) palm at 12 feet to 14 feet twelve to fourteen-foot clear trunk (12'-14' CT), and one (1) palm at ten feet to 12 feet overall height ten to twelve foot clear trunk (10'-12' CT).
- (10) Hanson Street from Veronica S. Shoemaker Boulevard to the city limits:
 - a. Tree types: Five Foxtail Palms (Wodyeta bifurcata) alternated with one Southern Magnolia Queen's Crape Myrtle (Lagerstroemia speciosa).

- b. Spacing: Five (5) Foxtail Palms fifteen 15 feet (15') apart; alternated with one (1) ~~Southern Magnolia~~ Queen's Crape Myrtle planted twenty 20 feet (20') from palms.
 - c. Minimum size at planting: ~~Magnolia~~ Queen's Crape Myrtle twelve feet to 12 fourteen feet high in height (12'-14'H) with a five foot spread (5'S), and a two-and-half-inch caliper (2-1/2" CAL) three-inch to four inch caliper at 12 inches from base of trunk; Foxtail Palms each cluster consisting of one (1) at 16 feet to 18 feet fourteen to sixteen foot clear trunk (14'-16' CT), two (2) at 12 feet to 14 feet ten to twelve foot clear trunk (10'-12' CT), and two (2) at ten feet to 12 feet overall height eight to ten foot clear trunk (8'-10' CT).
- (11) Marion Street/Luckett Road, from Palm Beach Boulevard to Ortiz Avenue:
 - a. Tree type: ~~Three Dwarf~~ Royal Poincianas (*Delonix regia*) alternated with clusters of five ~~Queen~~ Royal Palms (*Roystonea elata*).
 - b. Spacing: Royal Poincianas 40 forty feet apart on center (40' OC); ~~Queen~~ Royal Palms 20 twenty feet on center (20' OC) apart and 20 twenty feet (20') from Royal Poincianas.
 - c. Minimum size at planting: Royal Poincianas ten feet to twelve feet to 12 fourteen feet in height (12'-14'H) high with a five foot spread (5'S), and two and a half inch caliper (2-1/2" CAL) three-inch to four-inch caliper at 12 inches from base of trunk; Queen Royal Palms eight feet high at ten foot clear trunk (10' CT).
- (12) Marsh Avenue, from Edgewood Avenue south to Michigan Avenue:
 - a. Tree types: ~~Five Queen~~ Royal Palms (*Roystonea regia*) alternated with one ~~Cassia fistula~~ Yellow Tabebuia (*Tabebuia caraibia*).
 - b. Spacing: ~~Queen~~ Five (5) Royal Palms 20 twenty feet on center (20' OC) apart; alternated with one ~~Cassia fistula~~ Yellow Tabebuia planted 20 twenty feet (20') from palms.
 - c. Minimum size at planting: ~~Cassia fistula~~ Yellow Tabebuia ten feet to twelve feet to 12 fourteen feet in height (12'-14') high with a five-foot spread (5'S), and a two-and-half-inch caliper (2-1/2" CAL) three-inch to four inch caliper at 12 inches from base of trunk; Queen Royal Palms each at ten foot clear trunk (10' CT) cluster consisting of one at 16 feet to 18 feet, two at 12 feet to 14 feet, and two at eight feet to ten feet overall height.
- (13) McGregor Boulevard from Dr. Martin Luther King, Jr. Boulevard to the city limits:
 - a. Royal Palm 12 foot overall height, three feet of greywood, installed on 15 foot to 20 foot centers. Tree type: Royal Palm (*Roystonea elata*).
 - b. Spacing: Continuous row of Royal Palms planted fifteen to twenty feet on center (15'-20' OC).
 - c. Minimum size at planting: Royal Palms at ten-foot clear trunk (10' CT).
- (14) Metro Parkway, from Hanson Street to Winkler Avenue:

- a. Tree type: Washingtonia Palms, two clusters of three, staggered heights (Washingtonia robusta), alternated with one Golden Shower Tree (Cassia fistula).
 - b. Spacing: Two (2) clusters of three (3) Washingtonia Palms in staggered heights twelve 12 feet (12') apart with clusters on twenty 25-foot centers (20' OC); Cassia fistula Golden Shower Tree planted twenty-five 25 feet (25') from palms.
 - c. Minimum size at planting: Clusters of Washingtonia Palms, one ten-foot, 12-foot, and 14-foot palm overall height at one (1) palm ten-foot clear trunk (10' CT), one (1) at twelve-foot clear trunk (12' CT), and one (1) at fourteen foot clear trunk (14' CT). Cassia fistula, Golden Shower Tree at twelve feet to fourteen 12 feet high in height (12'-14'H) with a five foot spread (5'S) and a with three-inch to four-inch two and half inch caliper (2-1/2" CAL) at 12 inches from base of trunk.
- (15) Metro Parkway, from Winkler Avenue south to Urban Reserve Boundary:
- a. Tree type: Gumbo Limbo (Bursera simaruba).
 - b. Spacing: Fifty thirty feet (30') apart.
 - c. Minimum size at planting: Ten feet to 12 feet high with three-inch to four-inch caliper at 12 inches from base of trunk. Twelve feet to fourteen feet in height (12'-14'H) with a five-foot spread (5'S) and a two and half inch caliper (2-1/2" CAL).
- (16) Michigan Avenue/Michigan Link, from Seaboard Street to Dr. Martin Luther King, Jr. Boulevard:
- a. Tree type: One (1) Golden Yellow Tabebuia (Tabebuia caraiba) alternated with clusters of six (6) Washingtonia Palms (Washingtonia robusta).
 - b. Spacing: One (1) Golden Yellow Tabebuia planted twenty 20 feet (20') from palm clusters; Six (6) Washingtonia palms planted in triangular clusters spaced ten feet (10') apart.
 - c. Minimum size at planting: Golden Yellow Tabebuia ten feet to 12 feet high with three-inch to four-inch caliper at 12 inches from base of trunk at twelve to fourteen feet in height (12'-14'H) with a five-foot spread (5'S) and a two and a half inch caliper (2-1/2" CAL). ; palms planted at staggered heights between ten feet and 14 feet overall height Washingtonia palms at staggered heights of ten to fourteen of clear trunk (10'-14' CT) with not less than two feet (2') of stagger between palms.
- (17) North Airport Road to Cleveland Avenue and Boy Scout Drive between Cleveland Avenue and Summerlin Road:
- a. Tree type: One Lavender Pink Tabebuia (Tabebuia pallida) alternated with five Washingtonia Palms, then three (Washingtonia robusta) and Live Oaks, (Quercus virginiana) then five Washingtonia Palms, then repeat.
 - b. Spacing: One (1) Lavender Pink Tabebuia twenty 20 feet (20') from palms clusters; Five (5) Washingtonia palms in a triangular cluster

- twenty 20 feet (20') apart; then one (1) Live Oaks 50 feet apart and twenty-five 25 feet (25') from palms. Repeat pattern.
- c. Minimum size at planting: Ten feet to 12 feet high with three inch to four inch caliper at 12 inches from base of trunk for Live Oak and Lavender Tabebuia; two palms at ten feet, two at 12 feet and one at 14 feet overall height. Pink Tabebuia and Live Oak at twelve to fourteen feet in height (12'-14'H) with a five-foot spread (5'S) and a two-and-a-half-inch caliper (2-1/2" CAL). Washingtonia palms two (2) at ten-foot clear trunk (10'CT), two (2) at fourteen-foot clear trunk (14' CT) and one (1) at sixteen foot clear trunk (16' CT).
- (18) Omni Boulevard:
- a. Tree type: Jacaranda (Jacaranda acutifolia).
- b. Spacing: Fifty Forty feet apart on center (40' OC).
- c. Minimum size at planting: Ten feet to 12 feet high with three inch to four inch caliper at 12 inches from base of trunk Jacaranda at twelve to fourteen foot height (12'-14'H) with a five-foot spread (5'S) and a two-and-half-inch caliper (2-1/2" CAL).
- (19) Ortiz Avenue, from Palm Beach Boulevard to Colonial Boulevard:
- a. Tree type: Five Sabal Palms (Sabal palmetto) alternated with three Jacarandas (Jacaranda acutifolia), then five Sabal Palms, then one and Live Oak; (Quercus virginiana) then repeat pattern.
- b. Spacing: Five (5) Sabal Palms in a triangular cluster spaced ten feet apart on center (10' OC); then three (3) Jacarandas spaced forty 40 feet apart on center (40' OC) and twenty 20 feet (20') from palms; then one (1) Live Oaks spaced twenty-five 25 feet (25') on either side. Repeat pattern.
- c. Minimum size at planting: Palms clustered at staggered heights between ten feet and 14 feet overall height; Jacarandas and Oaks ten feet to 12 feet high with three inch to four inch caliper at 12 inches from base of trunk Jacaranda and Live Oak at twelve to fourteen feet in height (12'-14'H) with a five foot-spread (5'S) and a two-and-half-inch caliper (2-1/2" CAL).
- (20) Palm Beach Boulevard from Palm Avenue to the city limits:
- a. Tree type: Royal Palms (Roystonea elata) 12 feet overall height, three feet of greywood, installed on 15 foot to 20 foot centers.
- b. Spacing: Royal Palms installed fifteen feet on center (15' OC).
- c. Minimum size at planting: Royal Palms at ten foot to twelve-foot clear trunk (10'-12' CT).
- (21) Veronica S. Shoemaker Boulevard, from Edgewood Avenue south to Colonial Boulevard:
- a. Tree type: Three Sabal Palms (Sabal palmetto) alternated with one (1) Lavender Tabebuia (Tabebuia impetiginosa) or Gumbo Limbo (Bursera simaruba).
- b. Spacing: Three (3) Sabal Palms planted in triangular cluster ten feet apart on center (10' OC); Lavender Pink Tabebuia planted twenty 20 feet (20') from palms.

- c. ~~Minimum size at planting: Each cluster shall consist of one 16 foot to 18 foot, one 12 foot to 14 foot, and one ten foot to 12 foot palm overall height; Lavender Tabebuia ten feet to 12 feet high with three-inch to four inch caliper at 12 inches from base of trunk. Sabal Palms at ten feet to sixteen feet clear trunk (10'-16' CT) with a minimum of two feet (2') of clear trunk between each palm. Pink Tabebuia at twelve to fourteen feet of height (12'-14'H) with a five-foot spread (5'S) and a two-and-a-half-inch caliper (2-1/2" CAL).~~
- (22) Six Mile Cypress Parkway, from Colonial Boulevard south to city limits:
- a. ~~Tree type: Three Live Oaks (Quercus virginiana) alternated with clusters of seven Sabal Palms (Sabal palmetto).~~
 - b. ~~Spacing: Three (3) Live Oaks planted forty 40 feet apart on center (40' OC); Seven (7) Sabal Palms in a triangular cluster spaced ten feet apart on center (10' OC) and twenty 20 feet (20') from Live Oaks.~~
 - c. ~~Minimum size at planting: Live Oaks at ten twelve feet to 12 fourteen feet high in height (12'-14'H) with a five foot spread (5'S) and a three-inch to four inch two and half inch caliper (2-1/2" CAL); at 12 inches from base of trunk; Sabal Palms to be planted at staggered heights between ten feet and 14 feet overall height at ten feet to eighteen feet clear trunk (10'-18' CT) with a two foot (2') stagger between palms.~~
- (23) Summerlin Road:
- a. ~~Tree type: Cassia fistula Purple Tabebuia (Tabebuia impetignosa).~~
 - b. ~~Spacing: Fifty Thirty feet apart on center (30' OC).~~
 - c. ~~Minimum size at planting: Ten feet to 12 feet high with three-inch to four inch caliper at 12 inches from base of trunk Purple Tabebuias at twelve feet to fourteen feet height (12'-14'H) with a five-foot spread (5'S) and a two-and-a-half-inch caliper (2-1/2" CAL).~~
- (24) Winkler Avenue east of Cleveland Avenue:
- a. ~~Tree type: Laurel Oak (Quercus laurifolia).~~
 - b. ~~Spacing: Fifty Forty feet apart on center (40' OC).~~
 - c. ~~Minimum size at planting: Ten feet to 12 feet high with three inch to four inch caliper at 12 inches from base of trunk Laurel Oaks at twelve feet to fourteen feet in height (12'-14'H) with a five-foot spread (5'S) and a two-and-a-half-inch caliper (2-1/2" CAL).~~

~~Sec. 138-73. On-site tree requirements.~~

~~Landscaping for new developments must include the following, in addition to the trees required for buffer yards, parking, and building perimeter areas. Tree planting shall be as follows:~~

- (1) ~~All multifamily (two family or more family dwellings) residential developments must have a minimum of one tree per 3,000 square feet of gross site area.~~

~~(2) — Recreational vehicle developments must have a minimum of one tree per 3,000 square feet of gross site area.~~

~~(3) — Nonresidential developments must have a minimum of one (1) tree per 3,500 square feet of gross site area. No more than 50 percent of the trees may be located in the area between the rear lot line and a line created by extending the rear wall of the principal structure (defined as the wall closest to, and running roughly parallel to, the rear lot line) to the side lot lines for lots fronting on a single street. Where lots front on two streets, no more than 50 percent of the required trees may be located in the area between the rear lot line and the line created by extending the rear wall of the principal structure to the side lot line and the street right-of-way line.~~

Sec. 138-74. - Recommended trees and palms for planting.

It is recommended that the applicant only use the species of plants that are conducive to the microclimate of the Fort Myers area (primarily zones 9 and 10). Temperate plants that need a dormant phase or tropical plants that are cold sensitive should only be used in moderation.

~~RECOMMENDED TREES AND PALMS FOR PLANTING IN THE CITY OF FORT MYERS~~

~~Common Name~~	~~Scientific Name~~	~~Origin~~	~~Use~~	~~Growth Rate~~	~~Mature Height~~
~~Bay, Loblolly~~	~~Gordonia lasianthus~~	~~N~~	~~SH ST~~	~~M~~	~~MED~~
~~Bay, Red~~	~~Persea borbonia~~	~~N~~	~~SH SC~~	~~M~~	~~MED~~
~~Bay, Sweet~~	~~Magnolia virginiana~~	~~N~~	~~SH ST~~	~~M~~	~~MED~~
~~Black Olive~~	~~Bucida buceras~~	~~N~~	~~SH ST~~	~~M~~	~~MED~~
~~Bottlebrush~~	~~Callistemon spp.~~	~~E~~	~~SH SC~~	~~M~~	~~MED~~
~~Buttonwood, Green~~	~~Conocarpus erectus~~	~~N~~	~~SC~~	~~M~~	~~SM~~
~~Buttonwood, Silver~~	~~Conocarpus erectus Sericeus~~	~~N~~	~~SC~~	~~M~~	~~SM~~
~~Canary Island Date Palm~~	~~Phoenix canariensis~~	~~E~~	~~ST SP~~	~~M~~	~~XL~~
~~Cedar, Southern Red~~	~~Juniperus siliciola~~	~~N~~	~~SC~~	~~M~~	~~MED~~
~~Chinese Elm~~	~~Ulmus parvifolia~~	~~E~~	~~SH ST~~	~~F~~	~~XL~~
~~Crape Myrtle, Queen's~~	~~Lagerstroemia speciosa~~	~~E~~	~~SC ST~~	~~M~~	~~SM~~

Cypress, Bald	<i>Taxodium distichum</i>	N	SH SP	S	XL
Foxtail Palm	<i>Wodyetia bifurcata</i>	E	ST SP	M	XL
Geiger Tree	<i>Cordia sebestena</i>	N	SH SC ST	S	MED
Golden Rain Tree	<i>Koelreuteria formosana</i>	E	SH ST SP	M	XL
Golden Shower	<i>Cassia fistula</i>	E	SH ST SP	M	MED
Gumbo Limbo	<i>Bursera simaruba</i>	N	SH ST SP	F	XL
Holly, Dahoon	<i>Ilex cassine</i>	N	SH SC ST	M	MED
Holly, East Palatka	<i>Ilex attenuata</i>	N	SH SC ST	F	MED
Jacaranda	<i>Jacaranda acutifolia</i>	E	SH ST SP	M	XL
Loquat	<i>Eriobotrya japonica</i>	E	SC ST	M	SM
Magnolia, Southern	<i>Magnolia grandiflora</i>	N	SH ST SP	M	XL
Mahogany, West Indian	<i>Swietenia mahagoni</i>	N	SH ST SP	M	MED
Mangrove, Black	<i>Avicennia germinans</i>	N	SC	M	SM
Mangrove, White	<i>Laguncularia racemosa</i>	N	SC	M	SM
Maple, Red	<i>Acer rubrum</i>	N	SH SC ST	M	MED
Marlberry	<i>Ardisia escallonioides</i>	N	SC	M	SM
Oak, Laurel	<i>Quercus laurifolia</i>	N	SH ST SP	M	XL

Oak, Live	<i>Quercus virginiana</i>	N	SH ST SP	S	XL
Orchid Tree	<i>Bauhinia spp.</i>	E	SH ST	M	MED
Paurotis Palm	<i>Acoclorrhapha wrightii</i>	N	SP	M	SM
Pine, South Florida Slash	<i>Pinus elliotti</i> var. <i>densa</i>	N	SH ST	M	MED
Pongam	<i>Pongamia pinnata</i>	E	SP	M	MED
Queen Palm	<i>Cocos plumosa</i>	E	ST SP	M	XL
Royal Palm, Florida	<i>Roystonea elata</i>	N	ST SP	M	XL
Royal Poinciana	<i>Delonix regia</i>	E	SH ST SP	M	XL
Sabal Palm	<i>Sabal palmetto</i>	N	ST SP	M	MED
Sea Grape	<i>Coccoloba uvifera</i>	N	SC	M	MED
Sweetgum	<i>Liquidambar styraciflua</i>	N	SH ST SP	F	XL
Sycamore	<i>Platanus occidentalis</i>	N	SH ST SP	F	XL
Tabebuia, Golden	<i>Tabebuia caraiba</i>	E	SH ST SP	M	MED
Tabebuia, Lavender	<i>Tabebuia impetiginosa</i>	E	SH ST SP	M	MED
Tamarind, Wild	<i>Lysiloma bahamensios</i>	N	SH ST	F	MED
Torelliana, Eucalyptus	<i>Eucalyptus torelliana</i>	E	SH ST	F	XL
Tree of Gold	<i>Tabebuia argentea</i>	E	SH ST SP	M	MED
Washington Palm	<i>Washingtonia robusta</i>	E	ST SP	F	XL

Yaupon Holly	Ilex vomitoria	N	SH SC	M	SM
Yellow Elder	Tecoma stans	N	SC SP	F	SM

Origin: N(ative); E(xotic)

Use: SH(ade); SC(reen); ST(reet); SP(ecimen)

Growth Rate: F(ast); M(oderate); S(low)

Mature Height: *SM(all) trees, **MED(ium) trees, ***XL(arge) trees

* Average height between 15 and 25 feet at maturity.

** Average mature height between 20 and 40 feet. May be planted NEAR buildings but not UNDER overhead wires.

*** Average mature height between 30 and 60 feet. May be planted NEAR buildings but not UNDER overhead wires.

RECOMMENDED TREES AND PALMS FOR FIVE FOOT WIDE BUFFER YARDS

Common Name	Scientific Name
Adonidia Palm	Veitchia spp.
Alexander Palm	Archontophoenix spp.
Bottlebrush	Callistemon spp.
Buttonwood, Green	Conocarpus erectus
Buttonwood, Silver	Conocarpus erectus 'Sericeus'
Cattley Guava	Psidium littorale
Grape Myrtle	Lagerstroemia indica
Foxtail Palm	Wodyetia bifurcata
Holly, East Palatka	Ilex attenuata
Holly, Dahoon	Ilex cassine
Hurricane Palm	Dictyosperma album
Ligustrum	Ligustrum lucidum
Pigmy Date Palm	Phoenix roebelenii
Sabal Palm	Sabal palmetto
Simpson's Stopper	Myrcianthes fragrans

Sec. 138-75. - Exempted species.

A permit shall be obtained for the removal of all trees. A permit fee shall be charged if one (1) or more Florida native trees exist at on a property and are to be removed. A permit fee shall not be charged if one-hundred 100 percent (100%) of the trees to be removed consist of the following any plant species listed by the Florida Exotic Pest Plant Council's Invasive Plant List (Category 1 – Latest Edition).

- (1) ~~Punk tree—Melaleuca quinquenervia.~~
- (2) ~~Brazilian Pepper—Schinus terenbinthi folius.~~
- (3) ~~Austrailian Pine—Casuarina spp.~~
- (4) ~~Most Eucalyptus spp.~~
- (5) ~~Silk Oak—Grevillea robusta.~~
- (6) ~~Earleaf Acacia—Acacia auriculaeformis.~~
- (7) ~~Downy Rosemyrtle—Rhodomyrtus tomentosus~~
- (8) ~~Tropical Soda Apple—Solanum viarum~~

Sec. 138-76. - Prohibited, nuisance species.

~~It shall be unlawful to plant in the city the following trees: Australian Pine, Silk Oak, Most Eucalyptus spp., Brazilian Pepper, Melaleuca, Woman's Tongue, Bishopwood, Carrotwood, Rosewood, Murray Red Gum, Benjamin Fig, Cuban Laurel, Chinese Tallow, Java Plum, Rose Apple, or Cork Tree. If such trees exist on site at the time of development they must be removed. The use or installation of any plant species as identified in the most recent edition of the Florida Exotic Pest Plant Council's Invasive Plant List as a Category I invasive plant species shall be prohibited. After development, the site must be maintained in perpetuity, free from prohibited nuisance species defined herein.~~

Sec. 138-77. - Standards for removal and replacement of dead/damaged trees.

- (a) All trees planted must be maintained in a healthy condition. Planted trees that die must be replaced within thirty (30) days of notification by the city with new trees of the same species, at sizes provided in sections 138-42 or 138-72.
- (b) Trees damaged by lack of proper maintenance, excessive pruning, site clearing, or construction activities shall be replaced within thirty (30) days of notification by the city with new trees, pursuant to sections 138-105(c) and 138-32 or section 138-72.

Sec. 138-78. - Protective barrier requirements.

- (a) A protective barrier shall be placed around all protected and preserved trees prior to land clearing, preparation, or construction activities, according to the following:
 - (1) At or greater than a six-foot (6') width around the perimeter of all species of mangroves and trunks of palms ~~trees~~.
 - (2) At or greater than the full drip line of all pine trees.
 - (3) At or greater than two-thirds (2/3) of the drip line of all other canopy trees.
 - (4) Other means to protect root zones can be used, such as retaining walls.
- (b) Whenever a protective barrier is required under the provisions of this article, it shall remain in place until construction activity is terminated.
- (c) No equipment, chemicals, soil deposits, or construction materials shall be placed within such protective barriers.
- (d) Light construction activities subsequent to the removal of protective barriers shall be accomplished with hand labor.

- (e) Protective barriers must be a minimum of three feet in height (3'H), with one-inch by two-inch (1" x 2") minimum sized lumber and plastic or fabric barrier, or other city approved alternative barricading material.
- (f) Where extensive land clearing, preparation, or construction activities are expected to take place, fluorescent-colored plastic mesh barriers must be used in place of less noticeable plastic or fabric barriers.

Sec 138-79 through Sec 138-81 remain unchanged

Sec. 138-82. - Lethal yellowing disease affecting Coconut palm trees.

- ~~(a) *Species.* The Coconut Palm is one species of palm, which is highly susceptible to lethal yellowing disease. Some other palms, which are susceptible to lethal yellowing disease, include Canary Island Date, Sengal Date, and Christmas Palms. In any instance where a coconut palm is to be used in planting material, a cultivar resistant to lethal yellowing is required. This section regulates all palm species susceptible to lethal yellowing disease.~~
- ~~(b) *Inoculations required; removal of infected or dead trees.* All palms susceptible to lethal yellowing shall be inoculated three times per year, or as necessary to protect such trees from lethal yellowing disease. Disease susceptible palms located in street rights of way, alleys, and easements shall be the responsibility of the adjoining property owner to inoculate. Dead or infected palms shall be removed and destroyed in order to prevent the spread of this disease.~~
- ~~(c) *Penalties.* Penalties for failure to inoculate disease susceptible palms include those set out in section 98-6. As an alternative, the city may elect to inoculate such trees or remove infected trees on private property, and shall assess the costs thereof to the owner of the property.~~

Secs. 138-83—138-100. - Reserved.

DIVISION 2. - PLANNED UNIT DEVELOPMENT APPLICATION OR PERMIT

Remains unchanged