

MEMORANDUM

TO: Howey-in-the-Hills, Town Council
CC: B. Brasher, Town Clerk
FROM: Thomas A. Harowski, AICP, Planning Consultant
SUBJECT: Proposed Tree Ordinance Amendments
DATE: October 21, 2016

Following the October 10, 2016 Town Council meeting and the discussion on the proposed tree ordinance amendments, I met again with Mr. Nebel and Town staff to discuss the ordinance proposals. As a result of these discussions a couple of minor amendments were made to the text, but no substantive changes have been made to the current proposal. This memo is provided to offer additional explanation of the proposed program as it relates to tree removal and requirements for mitigation. It was felt that the full Council would benefit from a more complete explanation of the provisions in the draft amendment and how the overall process is expected to work.

Goals for Tree Regulation

Clearly stating the goals for regulating trees in the community might be a good starting point as the goals drive the content of the regulation. The goals used in developing the LDR and the current amendment include the following:

- Protect existing trees within the community for their environmental benefit and their contribution to the overall character of Howey-in-the-Hills.
- Maintain and expand the tree canopy. The wooded nature of the community is valued and the regulations on tree protection are structured to maintain and expand the tree canopy as the community develops. This goal is a large part of the reason the regulations ask for a minimum number of trees on a residential lot and why the placement of some of these trees is intended to create a street tree canopy such as the ones existing on Palm Avenue and Central Avenue.
- Have new development that is attractive and contributes to Town character. This goal leads to regulations on tree preservation as part of site development and minimum standards for landscaping (including trees) of new subdivisions and new non-residential development.

If these goals are inaccurate then at least some of the regulatory effect of the code is going to miss the target. If the goals are accurate, then we need to determine if the implementation of the code is reasonable and fair in how it impacts property owners while still achieving the Town's goals.

Tree Removal on Existing, Developed Lots

The ordinance requires that an inspection be completed before any tree removal takes place. The inspection will determine if the tree may be removed based on the approved criteria. The inspection will also determine if a permit is required for the removal. Conducting the inspection prior to any tree removal allows the Town to determine what type of tree is involved; the size of the tree; and whether the tree meets any of the criteria for removal. Where the tree has been removed prior to an inspection it is very difficult to determine the type and size of the tree and to verify if the tree qualified for removal. The inspection will also determine if replacement/mitigation is required.

The way the ordinance is structured, if the property owner goes through the permit process, the likelihood of requiring a replacement tree or other mitigation is small. Consulting the chart in Section 7.12.04 C shows that, with a permit, the only time a property owner is required to replace a tree is when the lot drops below the minimum required number of trees as a result of the existing tree removal. If the tree is removed without a permit, the property owner may be required to replace up to three trees depending on the size of the tree removed. The only time when replacements are calculated on a diameter inch is when the largest trees (historic or specimen trees) are removed without a permit.

When mitigation is required, the property owner is always required to plant trees when the lot falls below the minimum number of trees required by code. For trees required above the minimum number of trees, the property owner has the option of planting trees or paying into the tree replacement fund. As we have discussed on several occasions, if the goal is to maintain and expand tree canopy throughout the Town, it should be less expensive to install a tree than it is to pay into the fund. We think the ordinance functions in that manner now.

Just because a lot meets or exceeds the minimum number of required trees does not mean that other trees may be removed. Trees may be removed only when they meet one or more of the conditions listed in Section 7.12.01 B. (See the section quoted below.) If the tree does not fit into one of these classifications, the tree removal permit should be denied. Additionally, an inspection may approve tree removal and not require a permit. For example, a citrus tree, a pine tree or a palm tree may be approved for removal, but a permit is not required. A tree not on the approved tree listing may also be removed without a permit following inspection. For large trees including historic and specimen trees, approval to remove the tree on a developed lot is only given if the tree is impacting a structure or is diseased and dying. In these cases, mitigation is not required unless the lot falls below the minimum number of trees, and in that case, only the standard size replacement tree is mandated.

SECTION 7.12.01 B

When determining whether to permit the tree removal, the following issues will be evaluated:

1. Whether the tree has a potentially hazardous branching structure such as a hollow trunk, low fork in the trunk, or other.
2. Whether the tree is injured or diseased beyond repair.
3. Whether there are no viable alternatives to locating structures or driveways on the site.
4. Whether the tree is impacting the foundation of a house or other building or structure.
5. Whether the tree poses a threat to traffic visibility.
6. Whether the tree is negatively impacting a more desirable tree.
7. Any other issue deemed important by the Town.
8. Trees that are deemed hazardous or otherwise unsafe shall be allowed to be removed without mitigation. In circumstances where the condition supporting the removal of a tree is not obvious or easily documented by the Town inspector, a letter from a certified arborist may be required to permit removal. In emergency situations, a hazardous tree may be removed as long as proper documentation in the form of photographs and/or a written opinion from Town staff, accompanies the permit application.

Tree Removal on Undeveloped Lots

Trees may not be removed from undeveloped lots except in compliance with an approved site plan or subdivision plan. For subdivisions and non-residential properties, the subdivision and site plan review process will include a tree survey and a full analysis will be done as part of the tree protection plan and landscaping plan for the project. For an infill residential lot, the same process is used, but on a less formal basis. The applicant for construction on an infill lot will be required to submit a survey including tree locations. The survey and the landscaping plan for the new house will be reviewed for code compliance for both the tree requirements and the landscape requirements. Tree removal associated with the proposed construction will be approved with the building permit. The applicant is already required to submit a survey with boundaries and elevations so that items such as building setbacks and flood plain requirements can be reviewed, and the addition of trees to the survey is a relatively minor cost component.

Field Operations

As we have been considering the implementation of the tree protection ordinance, the staff has identified some procedures that we think will be useful in administering the program. We think the inspection should have a multi-part form that can be completed

in the field recording the results of the inspection and the actions required of the property owner. The form would include:

- The date when the inspection request is received,
- The date when the inspection is performed
- The signature of the inspector
- The address of the property,
- Information on the tree or trees requested for removal,
- A checklist based on Section 7.12.01 B noting the basis for approval
- Permit requirements when applicable
- Mitigation requirements when applicable

Staff has already recommended deleting the requirement for a survey for developed property showing trees and allowing the substitution of a sketch. We also recommend the property owner mark the tree proposed for removal. This approach will allow the inspector to easily complete the form in the field; give the applicant the results of the inspection and actions required on his part; and provide a record that can be kept in Town Hall for documentation when the applicant formally applies for the permit.

Court of Last Resort

The proposed code revisions allow a property owner to appeal a decision of the staff to the Town Council for a final ruling. The appeal may be for denial of a permit when the property owner believes a case exists to support removal when the code criteria are applied. The appeal may also ask for relief from a required mitigation if the property owner disagrees with the staff's application of the mitigation criteria to his particular situation. Under the appeals process, the Town Council may not grant approval to remove a tree when the removal is not justified under Section 7.12.01 B, but the Council may reconsider the evidence presented regarding the tree condition and impact to the property. The Town Council also may not approve fewer trees on a lot than required by code without the application of the formal variance process documenting a unique hardship particular to the specific property.

(Note: One of the minor changes added to the ordinance text is a time limit to make the appeal. Staff added a requirement to file an appeal within 60 days of the staff determination for denial or mitigation.)

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TOWN OF HOWEY-IN-THE-HILLS LAND DEVELOPMENT CODE
LANDSCAPE, IRRIGATION AND HARDSCAPE

CHAPTER 7

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7.00.00 GENERAL

In a landscape, plants fulfill multiple roles. For example, landscape designers often recommend grouping plants into masses to unify the design of plant beds. Groups of plants are visually pleasing, but this design technique provides environmental benefits as well. Trees planted in groups provide more atmospheric cooling than the same number of evenly spaced, isolated trees and are much better protected in high winds. In addition, trees planted in combination with appropriate shrubs and groundcovers form effective windbreaks and wildlife habitat.

Florida's environment is at risk from pollution, water shortages, exotic pests, and habitat loss. Landscapes that incorporate "Florida-friendly" practices can help address these concerns. Many Floridians inadvertently contribute to these problems, because they do not realize the impact their landscape management practices have on the environment. Florida-friendly landscape practices help ensure Florida's natural beauty.

7.00.01 Purpose and Intent

The Howey in the Hills Town Council finds that the health, safety, and welfare of its residents, property owners, business owners and visitors, can best be protected by land use regulations that support and enforce the following goals

- A. Preserve, enhance, or restore the unique natural environment of the community.
- B. Ensure that a diversity of plants and trees indigenous to the Town shall be maintained.
- C. Ensure that the majority of plantings on development projects are native and drought-tolerant species.
- D. Protect all specimen trees and viable treed areas as a vital natural resource and as a sanctuary for birds and animals.
- E. Establish appropriate landscaped buffers to promote open space, mitigate impacts between different land uses, and create wildlife corridors.
- F. Regulate the removal and replacement of trees from all public and private property within the Town.
- G. Preserve, enhance, or restore shade along streets and sidewalks to promote pedestrian activity and create appealing public corridors.
- H. Improve the appearance, environment, character, and value of the total urban area.
- I. Control flooding, soil erosion, heat, and air and noise pollution.
- J. Conserve potable water by planting native and drought-tolerant species.
- K. Protect life and property by appropriately planning the location and management of trees and vegetation.

7.00.02 Applicability

The requirements of this chapter shall apply to all uses within the Town. Where the size or shape of the lot or parcel, or any other circumstance requires waivers from any

of the requirements of this chapter, the applicant may mitigate by entering into an agreement with the Town to contribute to the Town's landscaping fund. Monies from the landscaping fund shall be used to enhance landscaping of public property within the Town limits.

7.00.03 Landscape Architect Required; Exemptions

Unless otherwise exempted by Florida Statutes, landscape plans for the following development projects shall be prepared by and bear the seal of a registered landscape architect:

- A. All new development, except individual residences on individual lots.
- B. Expansion and exterior alteration of existing non-residential development.
- C. Expansion and exterior alteration of existing residential development, except individual residences on individual lots.

The landscape architect shall provide a sealed letter that he or she has inspected the landscaping and irrigation and that it complies with the plans as drawn. This letter must be received prior to issuing the certificate of completion or certificate of occupancy for the development.

7.01.00 LANDSCAPE PLANS FOR DEVELOPMENT

7.01.01 Preliminary Subdivision and Site Plans

- A. Tree Surveys. As part of the Preliminary Subdivision and Preliminary Site Plan processes, each applicant shall provide a tree survey overlay on their plans. The tree survey shall show all trees with a DBH of 6" or greater. The plan sheet with the tree survey shall include a legend denoting the size of each tree (in DBH), the tree species, and whether it is proposed to be saved or destroyed. If the applicant proposes to remove any existing trees with a DBH of 6" or greater, and if the Town Council approves the removal of such trees, the applicant will need to follow the tree mitigation section of this chapter.
- B. Buffers, Open Space, Parking Areas, Stormwater Ponds. As part of the Preliminary Subdivision and Preliminary Site Plan processes, applicants shall outline areas on the property to be dedicated to buffers, open space, parking areas, stormwater ponds, and other site features that will require landscaping, irrigation and hardscape. Although the formal landscape plans are not required until the Final Plan process, applicants shall take into account the space needed for landscaping and hardscape in these areas as they submit their Preliminary Plans.

7.01.02 Final Subdivision and Site Plans

- A. Landscape Plan Requirements. Landscaping, irrigation and hardscape are vital parts of any development. A landscape plan showing proposed landscape, irrigation and hardscape areas shall be submitted for review and approval by the Town as part of the Final Subdivision and Final Site Plan processes or as part of a building permit application for development that does not require a Final Plan.

Landscape plans shall be drawn at a scale of no smaller than 1"=30' and include and indicate the following:

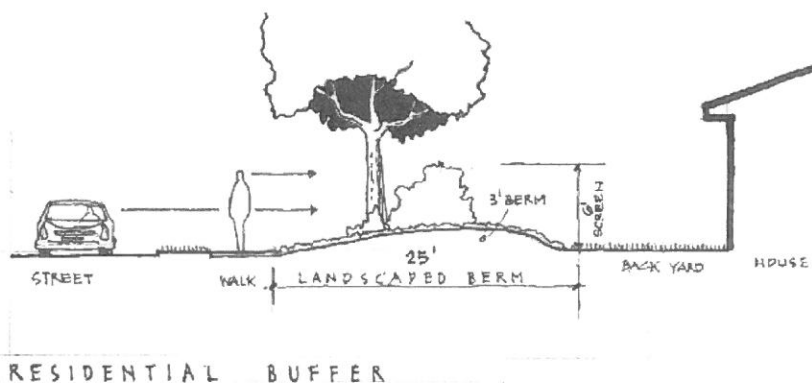
1. Location, type and size of all existing trees, and a table indicating which are to be saved or removed
 2. Location of all structures including buildings, freestanding signs, vehicular use areas and other improvements proposed for the property
 3. Location of overhead power lines and adjacent rights-of-way
 4. Location of existing vegetative communities to remain undisturbed
 5. Indication of soil types found on the subject site by soil boundary line and description, as well as the specifications for soil amendment where such is needed
 6. Location and type of all proposed landscape materials
 7. Plant list including quantity, type and specifications of proposed landscape materials
 8. General notes including mulching requirements, fertilization and installation instructions, and other such information as needed
 9. Planting details as needed
 10. Tree protection measures as outlined in this chapter.
 11. Water source for irrigation
 12. Water meter and/or point of connection
 13. Backflow prevention devices
 14. Pump station size and location
 15. Design operation pressure and flow rate per zone
 16. Irrigation system design including location of pipe, controllers, valves, sprinklers, sleeves and gate valves
- B. In creating the landscape plan, the landscape architect shall take into consideration the following:
1. The objective of landscaping shall be to preserve and enhance the particular elements of each specific site.
 2. The landscape areas shall be located on the site in such manner as to maximize preservation of existing trees and natural areas.
 3. Linking adjacent sites with landscape buffers or preservation of natural areas shall be pursued to the extent possible in order to develop wildlife corridors throughout the Town
 4. Plants shall be grouped to the extent possible based on water needs so the irrigation system can be most efficient
 5. Florida native, drought tolerant and low maintenance plants shall be used to the extent possible
 6. Plants that provide shelter and feed wildlife shall be used to the extent possible
 7. Ground covers other than grass shall be used whenever possible
 8. Stormwater retention areas shall not be credited toward meeting the open space requirement unless they are planted.

9. All planted areas shall be mulched with a three-inch (3") depth of mulching material, unless a ground cover is used.
10. Hardscape is an important component of development. Inanimate elements add visual interest, increase property value and make the outdoor space more inviting as an outdoor living environment. Use of hardscape such as walls, fences, fountains, benches, trash receptacles, planters, street light fixtures, fountains, gazebos, arbors, trellises, decorative paver materials and outdoor art should be included in the landscape plan.

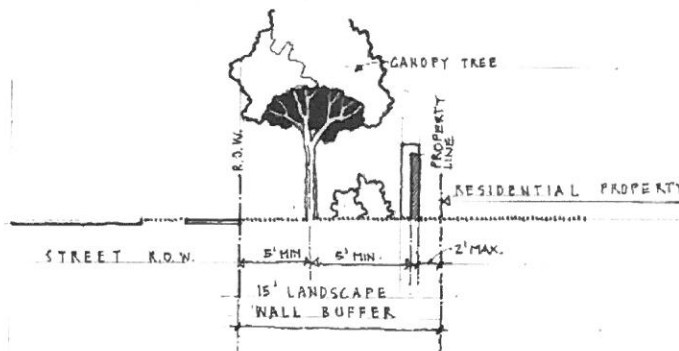
7.02.00 BUFFERS

7.02.01 Residential Buffers

- A. A form of screening shall be provided to separate residential subdivisions from abutting arterial or collector streets. The intent of the screening is to reduce visual, light, and noise impacts and to prevent access directly from the lot to the arterial or collector street.
- B. For single family subdivisions and multi-family site plans, the buffer shall be either:
 1. A landscaped berm with a total depth of at least 25 feet and no steeper than 3H:1V. The berm shall be at least three feet in height and the berm together with the landscaping, shall comprise a continuous screen of at least 5 and one half feet (5.5') at time of planting and six feet (6') within one year of planting. Canopy trees shall also be planted every 50 feet along the berm. For single family subdivisions, these buffers shall be on common property and dedicated to the homeowners' association for ownership and maintenance responsibilities. For multi-family sites, the buffer will be either owned by the property owner, or in the event of multiple owners, a condominium association or other common entity will own and maintain the buffer.



2. A landscaped wall buffer with a minimum depth of 15 feet. The wall shall maintain a height of six feet from grade on highest side and all walls shall have a decorative exterior (no exposed block). Acceptable materials for wall faces are brick, stucco or stone or a combination of those materials. Wall columns shall have a maximum spacing of thirty feet (30') on walls up to two hundred feet (200') in length and forty feet (40') on walls more than two hundred feet (200') in length. Wall columns may extend up to two feet (2') above the height of the wall. Within each fifty-foot (50') increment along the wall, two (2) canopy trees, two (2) understory trees, and 30 linear feet of shrubs shall be planted. The trees shall not be closer than five feet (5') to a walk or wall. The shrubs shall be at least 30" in height at time of planting. For single family subdivisions, these buffers shall be on common property and dedicated to the homeowners' association for ownership and maintenance responsibilities. For multi-family sites, the buffer will be either owned by the property owner, or in the event of multiple owners, a condominium association or other common entity will own and maintain the buffer.



3. For residential subdivisions or site plans, where a stormwater pond adjoins the roadway, the wall or berm may be replaced with wrought iron fencing and accompanying landscaping.
4. In designing residential buffers, overhead utility lines shall be taken into account. Buffers must not be placed so as to cause future conflicts between overhead utility lines and canopy trees. Where overhead utility lines exist, the buffer shall be designed so that the canopy trees are offset a minimum of 25 feet from the line of the overhead utility lines.



7.02.02 Non-Residential Buffers

- A. Landscaped buffer areas or landscaped wall areas intended to screen parking areas, stormwater ponds, or other site features shall be a minimum of 15 feet in depth if they adjoin a street, and a minimum of 10 feet in depth if they adjoin another non-residential parcel. Provisions for cross access easements between parcels under separate ownership shall be made when designing buffers. Berms may be used in addition to plants, fencing and walls to create an attractive screen.
- B. The landscaped buffer shall contain at least one canopy tree for each 50 linear feet. Canopy trees shall be located no less than five feet (5') and no more than eight feet (8') from sidewalks and other walkways in order to provide shade while minimizing conflicts between tree roots and sidewalks. Similarly, canopy trees shall be used to shade parking areas that adjoin buffers.
- C. In designing non-residential buffers, overhead utility lines shall be taken into account. Buffers must not be placed so as to cause future conflicts between overhead utility lines and canopy trees. Where overhead utility lines exist, the buffer shall be designed so that the canopy trees are offset a minimum of 25 feet from the line of the overhead utility lines.
- D. In the Town Center Overlay area, landscaped buffers may be modified in order to provide additional room for public plazas, wider sidewalks for seating of patrons, and on-street parking.
- E. When a non-residential use is proposed adjacent to residential property, the non-residential property owner shall be required to provide a minimum of a 15-foot-wide buffer. When considering this buffer, the Town's objective will be to protect the residential area from noise, traffic, light, and other factors that may be associated with the non-residential use. If non-residential and residential

properties are adjoining and owned by the same entity, buffer requirements between the two uses will be determined during the development review process.

7.03.00 STREET MEDIANS

- A. Within residential areas, landscaped medians will be required as a traffic calming device. These medians shall be placed along straight expanses of streets that exceed 600 feet. Landscaped medians may also be required at intersections in residential neighborhoods as a traffic calming device. Entrance medians are also permitted and encouraged.
- B. Landscaped islands and medians within private streets or the public rights-of-way shall conform to the following:
 - 1. The minimum size of a landscaped island or median along straight expanses of streets shall be eight feet (8') wide and 75 feet long.
 - 2. All landscaped islands in residential subdivisions shall be curbed (FDOT Type I)
 - 3. All islands and medians with landscaping shall have irrigation.
 - a. All landscaped islands shall have trees and low shrubbery or groundcover. In some cases, such as at intersections, hardscaped islands may be permitted or a combination of landscape and hardscape.

7.04.00 LANDSCAPING STRUCTURES

This section outlines the requirements for landscaping around buildings and accessory structures, with the exception of single family lots.

7.04.01 Primary Structures

- A. A minimum 10-foot wide landscaped area shall be provided along all sides of the building, except the following:
 - 1. Where areas such as motor vehicle bays or loading zones would prohibit it
 - 2. In front of storefront windows that directly abut a pedestrian way
 - 3. Where the building is within 25 feet of a required landscaped buffer or natural areas which will be preserved.
- B. This required area shall be primarily comprised of shrubs, ornamental plants and groundcovers. Turf should not be used in this area and trees that require more room for mature growth should not be placed close to buildings. Irrigation should be limited to drip or other components that will not spray towards the building or trap water near the building foundation. Hardscape, such as benches, sculpture or planters, is encouraged within this area.
- C. Landscape materials required by this section should be located to achieve the following:
 - 1. Screen mechanical equipment, air conditioning units or any other visible outdoor equipment adjacent to the primary building
 - 2. Provide visual interest along building facades

3. Enhance walkways, entrances, seating areas, and other similar pedestrian areas

7.04.02 Accessory and Secondary Structures

- A. If accessory structures or any sides of accessory structures are visible from public or private streets or parking areas, those structures or sides of structures shall be landscaped. If the accessory or secondary structure includes offices or customer areas, the structure shall be landscaped under the same requirements as section 7.04.01 (primary structures). If the accessory structure is used for storage or non-customer work areas, landscaping shall be designed to screen visible outdoor mechanical equipment and to provide visual interest along the facades visible from streets or parking areas.
- B. Solid Waste Refuse Facilities. All dumpsters shall be enclosed on three sides with a six-foot block enclosure. The enclosure shall be of similar or compatible material to the primary structure such as stucco, brick or stone. The fourth side (access) shall be screened with an opaque gate. The gate may be of wood or vinyl, but not chain link. The three sides of the enclosure shall be landscaped with bushes or hedges.
- C. Signs. Ground signs for non-residential areas shall be landscaped at the base with a minimum of 2 square feet of landscape material for every 2 feet of sign face. The irrigation system shall accommodate this landscaping.

7.05.00 VEHICULAR USE AREAS

Vehicular use areas shall be screened in accordance with the following provisions. Off-street parking and vehicular use areas which are visible from any public or private street or right-of-way shall be screened with any combination of hedge, fence, walls or berms which provide a minimum three-foot high visual barrier at time of planting. The location of such screening features shall be adjacent to the entire area perimeter.

7.05.01 Parking Lots

The following requirements are established to provide shade and visual interest to parking lot areas. The Town will place emphasis on preserving existing trees and applicants will be expected to take existing trees into consideration when designing parking lots.

- A. Terminal islands. Each row of parking spaces shall be terminated by landscaped islands to separate parking from adjacent drive aisles. Terminal islands shall measure a minimum of ten feet (10') in width and 20 feet (20') in length. Each terminal island shall include a canopy tree which is at least 4 inches DBH at time of planting, and ground cover. Shrubs may also be included.
- B. Interior islands. Interior islands shall be used to shade parking lots. Interior islands are required every ten (10) parking spaces and shall be, at a minimum, the same size of a parking space (10 feet by 20 feet). Each interior island shall

- include a canopy tree which is at least 4 inches DBH at time of planting, and ground cover. Shrubs may also be included.
- C. Divider medians. Landscaped divider medians shall form a continuous landscaped strip between abutting rows of parking. The minimum width of a divider median shall be 10 feet. Canopy trees at least 4 inches DBH at time of planting shall be spaced no fewer than one tree every 40 feet. Ground cover, shrubs, and understory trees shall also be included in divider medians.
- D. All parking lot landscaping shall be designed with an irrigation system.
- E. Protection of Landscaped Areas.
1. Curbing. Terminal islands, interior islands and divider medians shall be separated from vehicular use by non-mountable, reinforced concrete curbing of a type approved by the Town. Curbed landscaped areas shall be backfilled to a height of four inches below the back of curb, except where such backfill would impact an existing tree. Unreinforced extruded curbing shall be prohibited. The width of curbing shall be excluded from the calculation of the minimum dimensions of all required landscape areas.
 2. Wheel stops. All landscaped areas adjacent to off-street parking areas shall be protected from encroachment or intrusion of vehicles through the use of wheel stops. Wheel stops shall have a minimum height of six inches above finished grade of the parking area. Wheel stops shall be properly anchored and maintained in good condition.

7.06.00 IRRIGATION SYSTEM DESIGN

7.06.01 Required Irrigation

Newly planted landscaped areas shall be watered with an underground or drip irrigation system designed to provide 100 percent coverage. Plants shall be grouped so that irrigation zones may be set to water plants with like water demands.

Irrigation of re-established native vegetative communities shall be required for a minimum of one year after initial installation. Once the landscape materials have been firmly established, the system may be used only when necessary.

Irrigation of existing and undisturbed native vegetation shall not be required.

7.06.02 Required Systems Features

- A. Automatic irrigation systems shall comply with the following: High volume irrigation that would be used for the high water use areas (maximum of 20 percent of the landscaped area) or medium water use areas which have turf grass species and that would entail sprays or rotor emitters on installation of new systems or retrofit to one or more zones of an existing system, shall incorporate into the irrigation design and installation the following:
1. Application/precipitation rates for all emitters within a zone shall be matched.
 2. Head spacing shall not exceed 50 percent of nozzle throw diameter.

3. Sprinklers in low-lying areas shall have check valves to prevent drainage.
4. Pipes shall be sized to prevent velocities greater than 5 feet per second.
5. Pressure differential between the head closest to the valve and the head farthest from the valve shall not exceed 10 percent.
6. The system shall be free from leaks.
- B. All irrigation systems shall be regulated by an automatic timer or controller. Automatically controlled irrigation systems shall be operated by an irrigation controller that is capable of irrigating high requirement areas on a different schedule from low water requirement areas.
- C. The design of the system shall include sprinkler heads, drip tubing and any other devices appropriate for the landscape material to be irrigated.
- D. Low trajectory heads or low-volume water distributing devices shall be used to irrigate confined areas in order to prevent overspray.
- E. Irrigation systems shall be designed to place high water demand areas on separate zones from those areas with reduced water requirements.
- F. Irrigation systems shall be designed so that impervious areas are not watered.
- G. Moisture sensing devices (i.e., rain check valve) shall be installed to regulate the controller's operation during wet weather.
- H. The watering schedule recommended by the landscape architect shall be noted on the irrigation plans.

7.06.03 Water Sources for Irrigation

- A. Reclaimed Water. Landscape irrigation systems shall be designed for connection to reclaimed water lines if the Town has made reclaimed water available to the property or has future plans for its connection. All connections to the Town's reclaimed water system shall comply with the Standard Construction Details as adopted by the Town Council.
- B. Alternate Water Sources. If reclaimed water is not available to the site, irrigation systems shall take advantage of alternate water sources, if available.
- C. Potable Water System. The Town's potable water system shall be used for irrigation if reclaimed water is not available to the site and no other alternate water sources are available.

7.07.00 HARDSCAPE

7.07.01 General

- A. Hardscape consists of the inanimate elements of landscaping. For instance, brick walls, water fountains and arbors would all be considered part of the hardscape. Street furnishings like benches, trash receptacles, large planters, decorative signage and lighting fixtures and sculptures are also examples of hardscape.
- B. Hardscape Examples. Below are some examples of hardscape that can be used to meet the intent of this section:

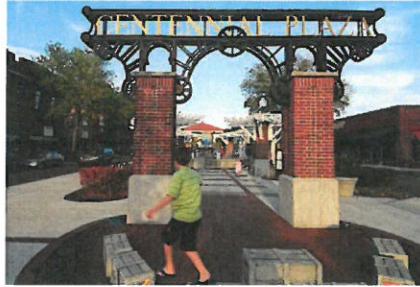
1. Public Art



2. Benches, Pavers and Planters



3. Entrance or Gateway Features



4. Plazas and Fountains



C. Hardscape Plans Require

1. All hardscape shall be included in the Final Subdivision and Final Site Plan landscaping plans. Wall details including footer typical sections and column details are required as part of the plans as well as detailed signage plans, including lighting for the signs.

2. Each subdivision, site or overall development may be individually themed and designed with its own architectural and landscaping style. To meet the intent of this section, hardscape shall be added to the overall exterior of the property both to serve particular functions and to add overall interest and character to the development and the Town. The number of hardscape elements should be relative to the size of the property as well as the use of the property.
3. Hardscape components that serve particular functions. Each site shall incorporate functional elements including, but not limited to, the following:
 - a. Decorative benches for seating areas
 - b. Arbors or trellises for additional shade in pedestrian or entrance areas
 - c. Decorative trash receptacles
 - d. Decorative lighting fixtures
 - e. Decorative pavers to outline pedestrian walkways
4. Hardscape components that add visual interest and character. Each site shall incorporate elements including, but not limited to, the following:
 - a. Sculpture or other public art
 - b. Entrance or gateway features
 - c. Fountains
 - d. Decorative planters
 - e. Outdoor plazas or seating areas for employees and patrons, where applicable

7.08.00 LANDSCAPING INDIVIDUAL RESIDENCES

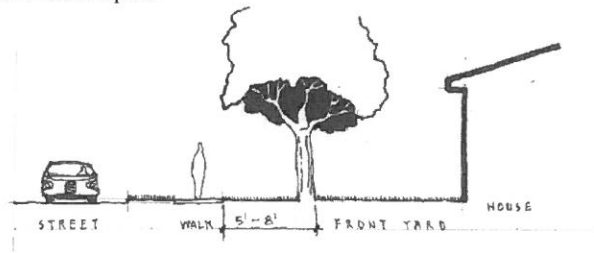
Building permit applications for new homes will be required to include landscape and irrigation plans for approval. The plans shall be clearly readable, drawn to a reasonable scale, show the entire site to be irrigated, and must include all improvements. Unless prepared by the property owner, drawings shall be prepared by a Florida registered landscape architect, a landscape contractor or an irrigation contractor. The landscaping and irrigation shall be inspected as part of the overall permit and no certificate of occupancy shall be issued unless the landscaping and irrigation has been installed and accepted.

7.08.01 Required Landscaping

- A. For single family lots that are one half acre or less in size, a minimum of three (3) canopy trees is required. Each such single family lot will be required to have one (1) tree with a caliper of at least four inches (4") and two (2) trees each with a caliper of at least two and one half inches (4 2½"). These trees shall have a minimum height of 10 feet at time of planting. These trees should be canopy trees as listed in this chapter. Existing trees may be counted as meeting this requirement, as long as they are of sufficient size and accepted species.

One of the canopy trees on each such single family lot shall be planted in the front yard, no less than 5 feet and no more than 8 feet from the sidewalk or lot line.

These trees will help to form a canopy over the sidewalk and street sides. Corner lots are required to provide two such trees, one on the front and one on the side of the lot. Additionally, if the lot is more than 100 feet wide at the sidewalk, then the lot will be required to have two such trees. Existing trees in this specific area can be counted as meeting this requirement. These trees shall be coordinated with the placement of street lights to prevent conflicts. A list of approved canopy trees is included in this chapter.



SINGLE FAMILY RESIDENTIAL STREET TREES

For lots greater than one half acre in size, an additional canopy tree is required for each additional eighth of an acre above the one-half acre, or portion thereof.

- B. A minimum of two (2) understory trees are required for single family lots of one half acre or less in size. For lots greater than one half acre in size, an additional understory tree is required for each additional one quarter of an acre above the one-half acre, or portion thereof.
- C. A maximum of fifty percent (50%) of the landscaped area may be covered with sod. Other ground covers should be used to the extent possible
- D. Shrubs and other plants shall be used as foundation plants along the outline of the house, except where doors or patios are located. Alternate plantings may be permitted if the architectural style of the house warrants it.
- E. A minimum of two areas of the yard that have at least 400 square feet of non-turf plantings in a row or cluster, not including the foundation plantings, is required. For single family lots greater than one half acre in size, an additional 400 square feet of non-turf plantings in a row or cluster, not including the foundation plantings, is required for each additional eighth of an acre, or portion thereof.
- F. At least 50% of the landscaped area for each single family lot shall be drought tolerant or Florida Friendly plants. Florida Friendly plants require a minimum of irrigation and shall be grouped together on the lot in order to reduce the irrigation requirement for those zones.

7.08.02 Crediting Existing Materials

For purposes of developing residential lots, existing trees of approved species and shrubs, including preserved natural areas, may be credited toward the requirements of this section.

7.08.03 Replacements Required

Replacement trees and landscaping shall be required whenever the proposed removal will result in less than indicated in the above schedule.

Lots which do not meet the above requirements on the effective date of this provision shall have legal nonconforming status with respect to landscaping. Replacements shall only be required to ensure that the extent of the nonconformity is in no way enhanced or enlarged by tree or vegetation removal activities.

Redevelopment of the lot or an expansion to the primary structure that equals twenty-five percent (25%) of the total gross square footage of the existing structure, shall require the lot to come into full compliance with this section.

7.09.00 LANDSCAPING MATERIAL

7.09.01 Minimum Specifications

All landscape material required to satisfy this code shall be Florida No. 1 Grade or better, according to the current Grades and Standards for Nursery Plants, State of Florida Department of Agriculture. In addition, all landscape material shall satisfy the following minimum specifications.

- A. Canopy trees. Canopy tree species shall be a minimum of 4 inches caliper and ten feet in height at the time of planting. All canopy trees shall be staked and guyed at the time of planting for a period of one growing season.
- B. Understory trees. Understory tree species shall be a minimum of two and one half inch (2 ½ ") and eight feet in height at the time of planting. Multi-trunk species shall be full and upright and have 1 ½ " canes. All understory trees shall be staked and guyed at the time of planting for a period of one growing season.
- C. Shrubs. Shrubs shall be a minimum of three-gallon container 18 to 24 inches in height at time of planting.
- D. Ornamentals. Ornamental plantings shall be minimum one-gallon container grown species.
- E. Ground covers.
 - 1. Ground covers. Plants used as ground covers shall follow horticultural standards to achieve full coverage within one growing season.
 - 2. Turf. Turf shall be installed for full coverage at time of planting.
- F. Mulch. All planting beds shall be filled with a minimum of three inches (3") of clean, weed free mulch. A maximum of 25 percent of these mulch areas may

consist of nonorganic decorative material such as crushed rock, gravel, and other similar materials. Rubber mulch is prohibited and cypress mulch is discouraged.

7.09.02 Maintenance of Plant Materials

- A. Property owners and/or their agents shall be jointly and severally responsible for the maintenance of all landscaping in good appearance, free of refuse and debris. This includes newly installed landscapes as well as those older established landscapes.
1. Replacement of substandard plant materials. All unhealthy and dead plant materials shall be replaced within 30 days in conformance with the approved site or landscape plan. Failure to replace the plant material within 30 days shall constitute a violation, and be regulated through code enforcement.
 2. Proper Pruning. Proper pruning practices as stated in the National Arborist Association's (NAA) Pruning Standards for Shade Trees are required by this LDC. The practice of "topping" or "hat-racking" is considered unacceptable by the NAA standards. In compliance with these standards, every effort shall be made to cut back to a lateral at least one-third to one-half the diameter of the parent limb or leader that is being removed. Cuts not made to a suitable lateral, sometimes called topping cuts, shall not be permitted.

7.10.00 APPROVED TREE AND PLANT LIST

Table 7.10.00 Approved Tree and Plant List

Canopy Trees	Understory Trees	Aquatic Plants	Shrubs	Ground Cover	Turf
Bald Cypress	American Holly	Arrowhead	American Beauty Berry	Aloe	Bahia
Laurel Oak	Chickasaw Plum	Arrowroot	Cherry Laurel	Chinese Juniper	Bermuda
Live Oak *	Crape Myrtle	Bald Cypress	Fetterbrush	Coontie	St. Augustine
Longleaf Pine	Dahoon Holly	Blue Flag Iris	Firebush	Day Lily	Zoysia
Red Maple	Date Palm	Buttonbush	Florida Anise	Dwarf Yaupon Holly	
Shumard Oak	Drake Elm	Cinnamon Fern	Gallberry	English Ivy	
Slash Pine	East Palatka Holly	Duck Potato	Indian Hawthorne	Florida Lantana	
Southern Magnolia *	Flowering Dogwood	Fragrant White Water Lily	Ligustrum	Lirope	
Sweet Bay	Ligustrum	Golden Canna	Ligustrum	Mondo Grass	
Sweetgum	Loquat	Maidencane	Native Azaleas	Society Garlic	

TOWN OF HOWEY-IN-THE-HILLS LAND DEVELOPMENT CODE
LANDSCAPE, IRRIGATION AND HARDSCAPE

CHAPTER 7

Sycamore	Sabal/Cabbage Palm	Pckerel Weed	Pampas Grass	Wandering Jew	
Water Oak	Savannah Holly	Pond Cypress	Pink Muhly Grass	Perennial Peanut	
	Washington Palm	Sawtooth fern	Pittosporum	Beach Sunflower	
	Wax Myrtle	Soft Rush	Podocarpus	Dwarf Asiatic Jasmine	
	Weeping Bottlebrush	Swamp Hibiscus	Sandanka Viburnum		
	Winged Elm		Saw Palmetto		
	Yaupon Holly		Silverthorn		
			Simpson Stopper		
			St. Johns Wort		
			Star Anise		
			Sweet Viburnum		

*Live Oaks and Southern Magnolias are the two approved Street Tree species in the Town of Howey in the Hills. Other trees may also be requested as street trees and will be considered on a case by case basis depending on the site conditions. Palms in clusters may be used as canopy trees, but not in excess of 10 percent of the total required canopy trees for the site.

Plants that do not appear on the above table may also be used if they are recommended by one of the following agencies:

1. The St. Johns River Water Management District,
2. The University of Florida, IFAS (Institute of Food and Agricultural Sciences) Extension, or
3. The Florida Department of Environmental Protection, Bureau of Aquatic Plant Management.

7.10.01 Prohibited Plant List

The following trees and plants are prohibited:

- A. Acacia
- B. Albizia Julibrissin (mimosa or silk tree)
- C. Australian Pine
- D. Brazillian Pepper Tree
- E. Camphor
- F. Castor Bean
- G. Chinaberry
- H. Chinese Tallow

- I. Ear Tree
- J. Eucalyptus
- K. Hydrilla
- L. Monkey Puzzle
- M. Punk Tree
- N. Rice Paper Plant
- O. Silk Oak
- P. Taro
- Q. Water Hyacinth

Also prohibited are those plant species prohibited by the Florida Department of Environmental Protection, the Florida Department of Agriculture and the plants listed as invasive by the Florida Exotic Pest Council. Trees on the Prohibited Plant List are exempt from the tree protection requirements of this chapter.

7.11.00 TREES

7.11.01 Tree Protection

- A. No application for a building permit, land clearing permit, site development permit, subdivision development permit, or grading and filling permit may be issued by the Building Official until the Building Official or a site inspector appointed by the Building Official has visited the site and determined that the tree protection measures are in place in accordance with this chapter and the approved site or subdivision plans.
- B. During construction, to ensure the health and survival of protected trees that are not to be removed, the developer shall avoid the following types of tree injuries during all development activities:
 - 1. Mechanical injuries to roots, trunk, and branches. To protect against mechanical injuries to roots, trunk and branches:
 - a. All existing trees that are to remain shall have barriers constructed around the tree at the drip line or around the combined drip line of any clumps of trees. Barriers are to be inspected by the Town prior to the start of any construction.
 - b. The minimum size of such wood barrier fencing shall be two inches (2") by four inches (4") and the top of the barrier shall be a minimum of four feet (4') high. Another acceptable means of barricading trees is the use of orange plastic construction fence, four feet (4') high, and supported every eight feet (8') by a No. 5 rebar, driven into the ground. Fencing shall be securely attached to rebar by the use of nylon zip ties or twisted wire. Barricades must be taut and perpendicular to the ground. No construction activity, cuts, fill, debris disposal or vehicular traffic is to take place within this area. Additionally, the storage or placement of material, machinery, or other construction equipment or substances is prohibited within the drip line area.

Commented [TH1]: Minor language change requested to assign responsibility for inspection of trees proposed for removal.

- c. Any waiver or request to construct barriers within the drip line shall be reviewed by the Town. Where drip lines of existing trees overlap, the orange mesh fencing or the wood barriers shall be erected around the outer perimeter of the combined drip lines.
- d. If turf block is specified to reduce the impact of impervious surface around the drip line of existing trees, it shall be constructed as follows: Prior to excavation, the limits of excavation should be root pruned to a depth of thirteen inches (13"); after removal of existing soil to that depth, add eight inches (8") of one-quarter inch (1/4") crushed stone (not limerock), then one and one-half inches (1 1/2") of sand to level the three and one eighth inch (3 1/8") thick turf block. All compaction shall be done by hand, exempting the normal Town requirements of 95% to 98% density. Compaction shall be done in layers after each sub-base is installed and again after the turf block is laid. The cells of the turf block shall then be filled with top soil and seeded. No more than 30 percent of the root zone shall be disturbed, no closer than 30 percent of the distance to the trunk.
- 2. Injuries by chemical poisoning. To avoid injuries due to chemical poisoning:
 - a. No fuel, paint, solvent, oil, thinner, asphalt, cement, or any other construction chemical or other material or tools of any kind shall be stored, or allowed in any manner to enter, within a required protective barrier or perimeter line.
 - b. No equipment shall be cleaned within a required protective barrier or perimeter line.
- 3. Injuries by grade changes.
 - a. When raising the grade, the following measures shall be taken:
 - i. Within the tree protection zone, existing sod/vegetation and leaf litter shall be removed and the soil loosened without injuring the roots.
 - ii. The area within the tree protection zone shall be properly fertilized to improve the vigor and growth of the roots.
 - iii. Porous, four-inch agriculture drain tiles shall be laid over the soil to drain liquids away from the trunk. A drop of at least one eighth (1/8) inch per foot shall be provided. The drain field shall be designed to provide adequate drainage of the existing configuration of the trees.
 - iv. The number of drains shall depend upon soil material; lighter sandy soils and porous gravelly material require fewer drains than heavy non-porous soils.
 - v. Aeration shall be provided by installing vertical tiles along the system. The vertical tiles shall be filled with gravel and capped with a heavy-duty mesh to keep out trash and debris.
 - vi. Dry wells shall be large enough to allow for maximum growth of the tree trunk. Tree wells shall be five (5) times the mature diameter of the tree trunk.

- vii. To prevent washing of material into the well, the dry well casing walls shall be high enough to bring the coping just above the level of the proposed fill.
- viii. Dry well walls shall be constructed of materials that permit passage of air and water. Concrete blocks backed with galvanized screening may be used for the sides of the well.
- ix. Grating or barriers shall be used around openings that are large enough to present a hazard to pedestrians.
- x. Open wells shall be cleaned regularly to remove sediment, leaves, and debris that might interfere with the free passage of air.
- xi. Large stones shall be placed over the drainage tiles and a layer of smaller stones shall be placed over the remainder of the ground within the drip line.
- xii. A layer of gravel shall be placed over the stones.
- xiii. The fill shall be completed with a layer of porous soil.
- b. When lowering the grade, the following measures shall be taken:
 - i. Roots shall be cut cleanly and re-trimmed after excavation.
 - ii. The canopy shall be pruned to aid in maintaining tree vigor.
 - iii. When lowering the grade of the soil surrounding a protective tree, the maximum number of tree roots within the tree protection zone shall be preserved by using any of the following methods:
 - 1. Terracing. The area within the tree protection zone is left at the original grade by terracing.
 - 2. Retaining wall. The area within the tree protection zone is left at the original grade by constructing a dry retaining wall. The retaining wall shall be porous to allow for aeration.
 - 3. Terracing and retaining wall. The area within the tree protection zone is left at the original grade by the combined use of terracing and dry retaining wall.
- c. Minor Changes in Grade. When the change in the grade is minor, as determined by the Town engineer, lesser protective measures than those described above may be taken. The Town engineer shall approve the use of these methods where their use will not endanger the health of the protected tree.
- 4. Injuries by excavation
 - a. Water, sewer, and other utility lines should be routed around the tree protection zones of protected trees.
 - b. If a line cannot reasonably be routed around the tree protection zone, the line shall be tunneled beneath the area within the zone. The tunnel shall be offset to one side of the trunk to prevent damage to the main top roots.
- 5. Injuries by paving. To avoid injury by paving within the drip line, porous paving may be placed within the tree protection zone of a protected tree, so long as no damage is inflicted to the tree by grade change, compaction of the soil, or any other cause.

7.11.02 Protection of Historic Trees

Historic trees are any trees, except for pines and palms, which are 36-inches or more at DBH or any tree determined by the Town Council to have a unique and intrinsic value because of its size, age, historic association, location, unique beauty or ecological value. All historic trees are to be protected unless one of the following conditions is met.

- A. The tree is not suitable for preservation as determined by a certified arborist.
- B. The tree is a threat to a principle structure or other wise constitutes a hazard requiring removal as determined by a qualified arborist or a professional engineer.
- C. The placement of the tree prohibits the economic use of the property for permissible development. Removal of historic trees based on this criterion requires mitigation as set forth in Section 7.12.03.

Commented [TH2]: This definition is a change from our current definition which includes only live oak and bald cypress at 36-inches or more DBH. The intent is to protect the largest trees that offer mature tree canopy for the community.

Note: The definition in Chapter 1 needs to be updated to be consistent with this definition.

7.11.03 Protection of Specimen Trees

A specimen tree shall be any tree, except for palms and pines, on the Approved Tree List (Refer to Section 7.10.00) that is 20-inches DBH or larger. Fifty percent of all specimen trees shall be preserved on a parcel. If the preservation of at least fifty percent of the specimen trees prohibits the economic use of the property for permissible development, all specimen trees removed from the property shall be mitigated as set forth in Section 7.12.03.

Commented [TH3]: The revised definition excludes some types of trees, but retains the trees that form the vast majority of the local tree cover. As with the historic tree definition above, the definition in Chapter 1 needs to be revised to be consistent with this section.

7.11.04 Design Standards for Promoting Tree Protection

In the design and development of any site, all trees shall be preserved to the maximum extent possible, except those identified by a certified arborist as not suited for protection due to the existing condition of the tree or other factors that will limit the tree's ability to grow and maintain its health. In attempting to save as many trees as possible, the following should be taken into account:

- A. Building Footprint. Every attempt shall be made to avoid placing a building in a location which requires the removal of a healthy, mature tree or a cluster of healthy, mature trees.
- B. Stormwater Management / Drainage Facilities. Every attempt shall be made to avoid placing retention ponds or other stormwater management/drainage facilities in locations which will cause the removal of healthy, mature trees on a lot or parcel. Where it is necessary to place such a facility in close proximity to a tree, the Town may require improvements including retaining walls, to ensure that the tree is not endangered.
- C. General Site Design. Site design considerations, including the meandering of roads and the reconfiguration of lot lines shall be used to maximize the preservation of healthy and mature trees.

- D. Parking and Driveways. No individual tree greater than 12" DBH or cluster of trees with an average DBH of 8" or more shall be removed unless it is physically impossible to provide alternative locations for these facilities. Measures included in this section shall be used to save the greatest number of trees possible in parking areas. Use of tree wells, root pruning, concrete pavers, turf block, root drainage systems, subsurface soil stabilization systems, special fill procedures (excluding the use of limerock) and restrictions may be required, as appropriate, and subject to the approval of the Town. Developers may request waivers from required parking spaces if it will result in saving existing trees.
- E. Demucking. Where demucking is required for a parking area or driveway(s) and such activity will cause the removal or destruction of a tree or trees as described above, certification must be presented by a licensed civil engineer or landscape architect certifying that the paved area cannot be constructed in a sound manner without the removal of the muck and the destruction of the existing trees. The certification shall include soil boring information supporting the findings. Where demucking is necessary, every attempt shall be made to demuck around the perimeter of trees and soil stabilization, drainage, fill and other methods shall be employed to preserve trees in this category.
- F. Masonry Walls. If wall construction is within ten feet (10') of an existing individual tree greater than 12" DBH or a cluster of trees with an average DBH of 8" or more, the wall or walls need to be constructed with a lintel system. Precast wall systems are encouraged due to a non-continuous footing and lesser impacts on tree root systems.

7.12.00 TREE REMOVAL PROCESS

7.12.01 Permit Required

- A. Any person who proposes to cut down, move, remove, or destroy any tree, including those on single family lots, shall first obtain a tree removal permit from the Town. Requests for tree removal permits shall be made to the Public Works Director. Trees that are located on vacant, undeveloped land shall not be removed except as permitted through the development of the site. ~~Trees that are on the Town's prohibited tree list may be removed without a permit. Citrus trees and trees on the Town's prohibited tree list (Section 7.10.01) may be removed without permit or fee following inspection. Mitigation may be required as a condition of a tree removal permit.~~ Any application for a tree removal permit shall include the following:
1. Property owner's name and day time telephone number.
 2. Street address and directions to the site.
 3. Type and size of tree proposed to be removed.
 4. Purpose for the tree removal.
 5. ~~Most recently available boundary survey.~~
 6. General location of the tree on the site.
 7. ~~How many trees remain~~ The number of trees remaining on the lot or parcel.

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Commented [TH4]: The intent is to encourage removal of these trees so the permit and fee is not required. The inspection is ensure the Town knows what types of trees are being removed.

Citrus trees are included in this category as well. Most communities exclude citrus from tree protection requirements as they are really ornamental trees in a residential setting. They do not contribute in a major way to the community tree canopy.

Commented [TH5]: If the code requires a survey, the staff does not have the option of waiving the requirement. A boundary survey does not typically include tree locations. The consensus of our discussion was to allow the inspector to make a determination in the field and request more information if necessary. We can request the applicant to mark the tree prior to inspection.

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- B. When determining whether to permit the tree removal, the following issues will be evaluated:
1. Whether the tree has a potentially hazardous branching structure such as a hollow trunk, low fork in the trunk, or other.
 2. Whether the tree is injured or diseased beyond repair.
 3. Whether there are no viable alternatives to locating structures or driveways on the site.
 4. Whether the tree is impacting the foundation of a house or other building or structure.
 5. Whether the tree poses a threat to traffic visibility.
 6. Whether the tree is negatively impacting a more desirable tree.
 7. Any other issue deemed important by the Town.
 8. Trees that are deemed hazardous or otherwise unsafe shall be allowed to be removed without mitigation. In circumstances where the condition supporting the removal of a tree is not obvious or easily documented by the Town inspector, a letter from a certified arborist may be required to permit removal. In emergency situations, a hazardous tree may be removed as long as proper documentation in the form of photographs and/or a written opinion from Town staff, accompanies the permit application.
- C. Any trees removed in violation of this chapter shall be deemed to be violations of this Code and subject to all penalty provisions afforded the Town.

7.12.02 Tree Farms

Trees located on property that is operated as a tree farm shall be exempt from tree replacement requirements upon proof of such operation and continued use of the land as a tree farm. If the landowner is requesting to remove the trees for development of the land, then the property is subject to tree mitigation measures. The Town will consider the property's former use as a tree farm when approving the mitigation plan so as not to place an unfair burden on the property owner.

7.12.03 Tree Removal for Agricultural Use

Trees may be removed to permit bona fide agricultural use of land zoned AG or otherwise permitted agricultural use under an approved planned unit development agreement. The property owner shall submit a survey or plot plan to the Town identifying the area to be cleared, the approximate number of trees and the intended agricultural use. Once a parcel is cleared for agricultural use as permitted by this section, the conversion of the property to a non-agricultural use within five (5) years of the date of clearing shall require mitigation of the removed trees as specified in this code as part of the approval of any development approval. Conversion to a non-agricultural use means rezoning to a non-agricultural classification or subdivision of the property other than a minor subdivision. Historic trees shall be preserved or mitigated unless a qualified arborist certifies that the tree is not suitable for preservation.

7.12.04 Mitigation for Removed Trees

- A. It is the intent of this section that the Town shall maintain or enhance its tree cover by ensuring that as trees are removed, others are planted. If there is not adequate room on a lot or parcel to replace a tree or trees once that tree or trees has been removed, then the property owner shall pay into the Town's landscaping tree mitigation fund which will be used to plant trees in other areas throughout the Town.
- B. Mitigation is required when any of the following circumstances occur:
- 1 For a developed single family parcel, the permitted removal of a tree will result in the parcel having fewer trees than required in Section 7.08.01.
 - 2 A tree other than a citrus tree, palm tree, pine tree or prohibited species listed in Section 7.10.01 is removed without a permit.
 - 3 Historic trees which are removed to provide for development of a parcel.
 - 4 Where land cleared for agricultural use is converted to non-agricultural uses within five (5) years of the date of initial tree removal.
 - 5 When more than fifty percent (50%) of the specimen trees are removed to permit development, all specimen trees removed must be mitigated.
- C. Trees shall be replaced on a one-inch (1") DBH to a one-inch (1") caliper basis. For example, a tree measuring nine inches (9") DBH may be replaced with one nine-inch (9") caliper tree, or one five-inch (5") and one four-inch (4") caliper trees. Minimum replacement sizes shall be as stated in section 7.09.01; based on the following table of requirements for residential lots.

Mitigation Cause	Mitigation Requirement
<u>Residential lot falls below the minimum number of trees required by Section 7.08.01 A</u>	<u>One two or three trees depending on the number of trees required to meet the minimum number.</u>
<u>Tree removed without permit.</u>	<u>Tree < 6 inches 1 replacement</u> <u>6-inch to 12-inch 2 replacements</u> <u>12-inch to 20-inch 3 replacements</u>
<u>Historic tree removed to permit development.</u>	<u>One-inch DBH of replacement tree for each inch DBH of tree(s) removed</u>
<u>Specimen tree removal above the 50% preservation requirement.</u>	<u>One-inch DBH of replacement tree for each inch DBH of tree(s) removed above the 50% preservation requirement.</u>
<u>Agricultural use conversion.</u>	<u>Twice the minimum tree planting requirement for new development.</u>

Commented [TH6]: The reformatting is intended to provide a clearer statement of when mitigation is required and what the mitigation level is. For a single-family lot that may fall below the minimum tree requirement, even with legal permitted tree removal, mitigation is required to bring the lot up to standard. In this case however, the mitigation is based solely on the number of trees required to attain the minimum standard rather than linking the mitigation to an inch-for-inch replacement requirement. As an example, the Town could permit removal of an 18-inch oak tree for cause, and the property owner would replace it with one 3-inch tree at a suitable location if the tree removal results in the lot being short one tree of the three tree minimum.

- D. Tree replacement and/or fees are calculated on standard permitted tree removals. If a tree removal is done in violation of the LDC, the replacement inches or fees

~~shall be triple that of the standard.~~ The minimum replacement tree shall be 3-inches DBH with a minimum height of 10-feet at the time of planting. The first priority is to replace the trees on site.

- E. The following Table of Values shall be used when payments are made to the Town's landscape fund:

Table 7.12.04 (G) Table of Values

Tree Size, Inches at DBH	Tree Removal Fee Per Inch DBH
4 inches to 9.9 inches	\$100.00
10 inches to 14.9 inches	\$125.00
15 inches to 19.9 inches	\$150.00
20 inches or greater	\$175.00
Any Historic Tree	\$300.00

7.12.05 APPEALS

~~Any property owner who wishes to contest a decision to deny a tree removal permit or to require mitigation as specified in Section 7.12.04 may appeal the staff decision to the Town Council. Appeals must be filed within sixty (60) days of the staff decision. The Town Council shall apply the same standards governing tree removal permits as set forth in Section 7.12.01 B and the mitigation standards as set forth in Section 7.12.04.~~

Commented [TH7]: A time limit to make the appeal has been added.

Commented [TH8]: New section allows the property owner to appeal to the Town Council if they disagree with the denial of a permit to remove a tree or the requirement to provide a replacement tree.

7.13.00 TREE TRIMMING AND CUTTING

- A. ~~Except for work performed by an owner or occupant on his residential property, no party other than a firm licensed in tree trimming and pruning may perform such work on any tree.~~
- B. Trees shall be trimmed only in the following manner:
1. ~~All cuts shall be clean, flush with the branch collar and executed at junctions, laterals or crotches. Drop crotch trimming for overhead utility lines shall be followed.~~
 2. ~~Removal of dead wood, crossing branches, weak or insignificant branches, and suckers shall be accomplished simultaneously with any reduction in crown.~~
 3. ~~Topiary pruning shall only be allowed for trees located on owner occupied property developed for detached single-family or duplex usage, or for those trees that were not installed to meet minimum landscaping requirements and are identified on an approved landscape plan as appropriate for topiary pruning, and are located outside the rights-of-way or road easements.~~
 4. ~~Hatracking, which means to flat-cut the top of a tree, severing the leader or leaders, or pruning a tree by stubbing off mature wood, or reducing the total circumference or canopy spread not in conformance with National Arborists Association standards, or any trimming which alters the natural characteristics of the species is prohibited~~

Commented [TH9]: This new section on trimming and cutting is added to address the "hatracking issue and clarify the standards for allowable trimming.

Having trimming standards will provide a basis for code enforcement as a violation can be demonstrated with photographic evidence and expert testimony.

Note the addition of the "topiary" language so that required shade trees cannot be trimmed into shrubs.

Also note the language on disposal of trimmings.

We should discuss whether a section is needed on mitigation as a corrective action for unapproved trimming or whether the general code provisions are adequate.

- C. All trimmed branches or fronds are to be removed from the property and properly disposed of by the tree service.

7.14.00 LAND CLEARING

7.14.01 General

A land clearing permit is required other than that directly associated with a single family home or an approved subdivision or site plan.

7.13.02 Permit Application

- A. The applicant shall submit a sealed survey by a licensed surveyor in the State of Florida to include topographic information and existing trees at a scale of not less than 1 inch = 100 feet, showing:
1. The area to be cleared;
 2. Size and type of existing trees, trees to be removed; and
 3. Wetland areas, water bodies and flood hazard zones.
- B. The application shall also include the following:
1. A description of the proposed method of clearing;
 2. The type of equipment to be used;
 3. The purpose for the activity; and
 4. The name of the owner of the property and the person or firm performing the work.
- C. The application shall be accompanied by the appropriate fees as required by the Town.

7.13.03 Permit Issuance/Enforcement

- A. The Building Official may issue a Land Clearing Permit following review and recommendation by the Town Engineer and Town Planner and approval by the Town Council. The permit shall contain any special conditions or activity restrictions. The permit shall be valid for a period of fourteen (14) days from the date of issuance.
- B. Following completion of the activity or after fourteen (14) days from the date of permit issuance, the site shall be inspected for compliance with the conditions of the permit. Any violations of the permit or other applicable Town codes or ordinances shall be referred to the Code Enforcement Officer. In addition, for any protective tree removed without a permit, a fine shall be assessed in an amount equal to one hundred dollars (\$100) times the diameter at breast height of the removed specimen. Where trees have been removed or damaged in violation of this section or permit requirements, remedial actions shall be required to restore the property. A restoration plan shall be submitted to the Building Department for approval by the Town and may require tree replacement at a ratio not to exceed four (4) to one (1) either on site or a combination of on site and payment into the

Town's landscape fund. No Certificate of Occupancy shall be issued for any development until all applicable permit and restoration conditions have been met.

7.14.00 GRADING AND FILLING

7.14.01 General

- A. No grading or filling of lands is allowed except in connection with a grade and fill permit or development order for the improvement of said lands. "Improvement of land" shall mean the development of land with buildings, structures, streets, sewers, waterlines or other facilities, the erection or installation of which requires the issuance of a permit by the Town. Grading and filling permits may be issued as follows:
 - 1. Pursuant to the subdivision and site plan regulations in connection with Final Plan approval;
 - 2. Through the issuance of a building permit for improvements on the property; and
 - 3. Upon approval of a complete application for a grade and fill permit in accordance with section 7.14.02.
- B. The burying of rubbish, logs, lumber, building materials, underbrush, trash or other matter which would decompose or allow the land to thereafter settle is hereby determined to be a change or modification of the grade of land for which no permit shall be issued except as authorized by this Code.

7.14.02 Permit Application

- A. Application for a Grading and Filling Permit shall include:
 - 1. The name of the owner of the property;
 - 2. The name of the person or firm which will perform the work;
 - 3. A sealed survey by a licensed surveyor in the State of Florida to include existing features of the property including elevations, buildings, structures, trees over six inches (6") inches in DBH, streets, utility easements, rights of way, and other improvements; the precise area(s) of development activity; wetlands and water bodies;
 - 4. The area to be graded or filled and cubic yard calculations; and
 - 5. The specific purpose for the filling or grading activity and type of equipment to be used.
- B. Except for single-family homes, the application shall include a statement prepared by a licensed civil engineer or landscape architect certifying that the grade or fill is consistent with all applicable Town codes and ordinances and will not have an adverse impact on environmentally sensitive areas, drainage facilities or water bodies.
- C. Any trees to be removed shall be shown on a dimensional drawing. A separate tree removal permit in accordance with the provisions of section 7.12.00 of this chapter will also be required.

- D. The application shall be accompanied by the appropriate fees as required by the Town.

7.14.03 Permit Issuance

- A. Except for single-family homes or projects to be reviewed through the subdivision or site plan review processes, the Town Engineer shall determine if the application as submitted is in compliance with all laws of the Town, County, State and Federal government, and whether the proposed clearing, grading, and/or filling will cause adverse impacts to the environment. The Town Engineer shall make this determination in writing; shall state the basis for the determination; and may recommend other practical alternatives which would allow the permit to be issued. The Town Engineer may issue approval subject to conditions to mitigate adverse impacts to the environment. The applicant will be responsible for all tree removal, preservation and mitigation requirements contained within this chapter and shall include the appropriate plans and details as part of the application. In situations where large tracts of land will be cleared, the Town shall require additional plantings of trees to ensure adequate buffering and screening from adjacent public rights-of-way.
- B. Except where health, safety or public welfare is jeopardized, no grade and fill permits shall be issued in conjunction with the grading and filling of an undeveloped parcel that will require the removal or damage of trees or native vegetation, unless the permit is in connection with a building permit for the improvement of said lands.
- C. For the construction of a single-family home, the Building Official shall review the permit application based on the criteria listed in this section.
- D. Approved grade and fill permits shall be issued by the Building Official.

7.14.04 Grading and Filling Standards

- A. Any grade or fill activity shall be consistent with the following standards:
1. All development activity shall conform with the requirements of this Code and any special conditions of the permit.
 2. No authorization for a change, modification or lowering of grade shall be issued when it is determined the same will result in a hole or depression or other adverse effect, which will create a hazard.
 3. No person shall change, modify or lower any grade to any greater degree than is allowed by the authorization or permit granted for the same.
 4. Any authorized bulldozing or fill of lands which loosens sand or topsoil and permits it to blow upon the lands and premises of others is hereby declared to be a nuisance. Such lands shall therefore, within thirty (30) days after completion of such bulldozing work, be seeded or planted in order to minimize the tendency of the sand or topsoil to blow.
- B. No less than twenty-four (24) hours prior to beginning the operation, the permittee shall notify the Town Engineer of the precise time at which the work will begin.

- C. The Town Engineer shall be present at the time such operation begins and shall monitor the activity as deemed appropriate.