TOWN OF MELBOURNE BEACH

TOWN COMMISSION WORKSHOP

November 4, 2026

6:00 PM

AGENDA PACKET

Town of Melbourne Beach

TOWN COMMISSION WORKSHOP
WEDNESDAY, NOVEMBER 4, 2026 @ 6:00 PM
COMMUNITY CENTER – 509 OCEAN AVENUE

PUBLIC NOTICE
AGENDA

Commission Members:
Mayor Alison Dennington
Vice Mayor Terry Cronin
Commissioner Anna Butler
Commissioner Tim Reed
Commissioner Sherri Quarrie

Staff Members:
Town Manager A. Marie Smith
Town Clerk Cyd Jones

1. **Call to Order**

2. **Roll Call**

3. **Pledge of Allegiance, Moment of Silence, and Civility Pledge**
   The Commission and Staff of The Town of Melbourne Beach pledge to conduct all public discourse in a civil manner. The Mayor and all members of the Commission will treat one another with courtesy and respect and ask the public to do the same toward the Commission, each other, and toward Staff. We will be respectful of one another even when we disagree. We will direct all comments toward the issues. We will avoid personal attacks.

4. **Public Comment**
   After being acknowledged by the Mayor, members of the public should state their name and address for the record. The Commission encourages citizens to prepare their comments in advance. Each individual will have three (3) minutes to address the Commission on any topic(s) related to Town business, not on the Agenda. Please remember to sign the sign-in sheet provided if you will be speaking at the meeting.

5. **New Business**
   A. Discussion of proposed changes to the Landscape Ordinance with members of the Environmental Advisory Board and Planning & Zoning Board

6. **Adjournment**

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, THE TOWN HEREBY ADVISES THE PUBLIC THAT: In order to appeal any decision made at this meeting, you will need a verbatim transcript of the proceedings. It will be your responsibility to ensure such a record is made. Such person must provide a method for recording the proceedings verbatim as the Town does not do so. In accordance with the Americans with Disability Act and Section 286.26, Florida Statutes, persons needing special accommodations for this meeting shall, at least 5 days prior to the meeting, contact the Office of the Town Clerk at (321) 724-5860 or Florida Relay System at 711.

Town Commission Workshop

Section: **New Business**

Meeting Date: **November 4, 2026**

From: **Town Clerk**

RE: **Discussion of proposed changes to the Landscape Ordinance**

Background Information:

The purpose of this workshop is to allow the Environmental Advisory Board and Planning & Zoning Board to discuss proposed changes to the Landscape Ordinance with the Town Commission and present their recommendations.

Attachments:

- Infographic from the Environmental Advisory Board – Page 4
- Report from the Planning & Zoning Board – Pages 5-19
- Existing vs. Proposed Ordinance Language from Planning & Zoning Board – Pages 20-37

BUILDING A BETTER BALANCE

FOR MELBOURNE BEACH & THE INDIAN RIVER LAGOON

A New Environmental Report Card for Smarter Development

OUR GOAL

Protect water quality, preserve native trees and habitat, and reduce stormwater runoff—together.

THE CURRENT PROBLEM



Strict stormwater rules require a lot of on-site retention. Builders are clearing entire lots—including native vegetation and large trees—to make room for swales and retention areas.

This harms our environment, wildlife habitat, and the Indian River Lagoon.

UNINTENDED CONSEQUENCES



Loss of mature trees & shade



Loss of wildlife habitat



Worse water quality



Hotter sites & more flooding

THE SOLUTION: AN ENVIRONMENTAL REPORT CARD

Evaluate the total environmental impact of a project, not just stormwater. Projects earn points in key categories and must reach a minimum score to pass.

Stormwater Management	30%
Existing Tree Preservation	20%
Native Vegetation Preservation	15%
Native Landscaping	10%
Water Quality Protection	10%
Habitat Value	5%
Heat Island Reduction	5%
Soil Preservation	5%

MINIMUM SCORE TO PASS:

75/100

Focus on
NO NET LOSS OF ENVIRONMENTAL FUNCTION

TREAT TREES LIKE INFRASTRUCTURE

Mature trees intercept rain, increase infiltration, reduce pollution, cool the site, and provide habitat. Preserving trees earns credit—reducing the stormwater infrastructure you need.



- Intercepts rainfall
- Reduces runoff & erosion
- Improves water quality
- Stores carbon
- Provides habitat

SAVE TREES. SAVE MONEY. PROTECT OUR LAGOON.

TWO DIFFERENT APPROACHES. TWO VERY DIFFERENT RESULTS.

OPTION A: CLEAR EVERYTHING

Large swale. All trees and native vegetation removed.



Stormwater Management	30/30
Tree Preservation	0/20
Native Vegetation	0/15
Native Landscaping	2/10
Water Quality Protection	2/10
Habitat Value	1/5
Heat Island Reduction	2/5
Soil Preservation	2/5

TOTAL SCORE: 33/100 ✗ FAILS

Meets stormwater rules, but causes major environmental damage.

OPTION B: PRESERVE & DESIGN SMART

Preserves trees, uses LID (low impact development) solutions.



Stormwater Management	25/30
Tree Preservation	18/20
Native Vegetation	14/15
Native Landscaping	9/10
Water Quality Protection	9/10
Habitat Value	5/5
Heat Island Reduction	5/5
Soil Preservation	4/5

TOTAL SCORE: 84/100 ✓ PASSES

Better for our environment and still meets performance goals.

HOW IT WORKS

1. Submit an Environmental Impact Matrix with your site plan.
2. Staff reviews and scores your project in all categories.
3. Project must score 75 or higher to be approved.
4. Receive your Environmental Report Card rating!

TOOLS & FLEXIBILITY

Use a combination of smart solutions, such as:

- Rain gardens & bioswales
- Permeable pavement
- Underground infiltration systems
- Rain barrels & cisterns
- Native landscaping
- Preserve existing trees & soils

Different solutions. Same goal: A healthier lagoon and community.

INCENTIVES FOR DOING MORE

Projects that go above and beyond can earn benefits like:

- Fewer landscaping requirements
- Stormwater credits
- Expedited review
- Lower permit fees
- Recognition as a leader in sustainability

GOOD FOR OUR COMMUNITY.
GOOD FOR OUR LAGOON.
GOOD FOR OUR FUTURE.

Smart development. Healthy environment. Stronger Melbourne Beach.

Let's build a better balance—together.

Some practical considerations for Section 9A-7 Minimum Tree Plantings



Subject: Tree cutting & replacement ordinance

Issue—current ordinance calls for a tree for tree replacement on the house tear-down and rebuild lots (Sec. 9A-7(c). This has proven to be impractical given the substantial increase in footprint of the new home along with the extensive on-site stormwater swale mandate. Maintaining the same tree density before and after construction was also deemed impractical for the same reasons.

History—Chapter 9A: Landscape and Trees was modified in March of 2023 as it relates to tree retention. The before and after of this modification is as follows.

Before; (1) minimum of three trees must exist (9A-7 (a)).

(2) tree density after construction must be equal or greater than pre-construction (9A-6 (b)(2)).

After; (1) minimum of three trees was deleted.

(2) any tree removed must be replaced, tree for tree requirement (9A-7 (c)).

Community Survey--A drive by of new homes built on tear down lots prior to the March modifications demonstrated no lack of tree retention. The post construction landscapes' all have tree densities consistent with their neighboring homes and added to the goal of preserving and enhancing property values. See list below with tree estimates:

	Number of Trees
• 401 A1A	6+
• 404 Atlantic	8+
• 400 Banyan	10+
• 422 Sunset	12+
• 527 Sunset	13+
• 507 Sunset	13+
• 520 Sunset	7+
• 524 Sunset	15+
• 303 Riverside	10+
• 901 Riverside	9+
• 509 Third	16+
• 419 Ave B	16+
• 418 Ave B	25+
• 404 Ave B	17+
• 307 Ave B	16+
• 401 Ave A	10+
• 522 Ave A	14+
• 225 Fourth	14+
• 208 Second	5+
• 202 Second	12+
• 304 First	8+

Melbourne Beach Tree Planting Constraints

- **Lot sizes**-Zoning section 3RS (Sunset to Sixth) contains the majority of the old housing stock that is subject to the tear down and rebuilds. This zone contains many smaller sized lots. Some only 60 to 70 feet wide.

- **Expanded footprint**—custom homes being constructed on these 3RS lots are much larger than the existing house torn down and usually include expansive decks and pools.

- **Extensive swales required**—any new house constructed must meet the extensive on-site swale requirements of section 3A-80. These swales in general eliminate any tree planting area on the side lots and severely limit planting in most back yards.

- **Utility easements**—Melbourne Beach has in some cases overhead power lines either along the front or back of a lot. Florida Statue 163.3209 prohibits a local government from adopting an ordinance that requires planting a tree under or near an established electric utility right-of-way.

- **Live Oak Planting**—Live Oaks have aggressive expansive root systems. Planting constrains include the following (see attached report of Certified Arborist, dated September 25, 2025)

    1. Distance from slab foundation 15-20 ft.
    2. Distance from driveways & streets 8-10 ft from driveway, 4 ft from street.
    3. Distance from pool 15-20 ft.
    4. Minimum of 20-30 lateral ft from utility easement
    5. No planting directly in swales

Live Oaks with their size, vigor and structural needs make them difficult to accommodate on residential lots. Where setbacks are narrow and infrastructure is tightly packed, the decision to plant a Live Oak should be made carefully, based on the specific layout and constraints of the property. The arborist concluded as follows:

*"Mandating Live Oaks on every parcel is **not advisable**. A more effective approach is to encourage planting where feasible and offer species alternatives where conditions are not suitable. Homeowners should be supported with clear guidance and flexible options rather than rigid requirements".*

Survey of Minimum Tree Requirements

Summary of Findings:

This was a 10 City survey from Ft. Pierce to Titusville

For lot sizes similar to Melbourne Beach (100 x 150) the minimum required trees averaged from 4 to 7

Four of the 10 Cities had no minimum requirements

With Minimum Tree Requirements		**Without** Minimum Tree	
Ft Pierce	4	Indialantic	none
Sebastian	7	Cocoa Beach	none
Vero Beach	6	Titusville	none
Satellite Beach	7	Indian Harbor	none
City of Cocoa	5		
Melbourne	4		

Best Practices for Planting Live Oaks in Melbourne Beach, FL

Prepared For: Town of Melbourne Beach Planning & Zoning Board
Prepared by: Jeffery Washeck, ISA Certified Arborist / Sigma Tree Consulting LLC
Date: September 25, 2025

Overview and Objective

This report provides professional arboricultural guidance to the Town of Melbourne Beach regarding best practices for the planting of *Quercus virginiana* (Southern Live Oak) on residential properties. The Town's Comprehensive Plan encourages the inclusion of canopy trees, and this report aims to support Planning & Zoning (P&Z) as it evaluates whether live oak planting should be **mandated or merely encouraged** on newly constructed homes.

Due to the spatial constraints of typical residential lots, including narrow side setbacks, mandated stormwater swales, and overhead utility conflicts, careful planning is essential. This report outlines site-appropriate planting recommendations to help prevent future structural conflicts and ensure the long-term viability of live oak specimens in an urban coastal environment.

Lot Characteristics & Planning Constraints

Typical lot dimensions and constraints include:

- **Average lot size:** 90' x 150' (some as narrow as 60' wide)
- **Setbacks:** 15' side setbacks (used entirely for swales), 25' front and rear
- **Stormwater swales:** Located on both sides and at rear fence line
- **Utilities:** Overhead power lines in front yards (some lots)
- **Structures:** Custom homes often built to maximum setback limits

These constraints significantly limit viable planting space, especially on side yards. Tree placement must therefore be strategic, accounting for root development, canopy spread, and potential future conflicts.

Species Overview: Southern Live Oak

The Southern Live Oak (*Quercus virginiana*) is one of the most iconic and durable native tree species in the southeastern United States. Known for its broad, spreading canopy and dense evergreen foliage, it is capable of providing exceptional shade and landscape value when planted in appropriate settings. In favorable conditions, live oaks can grow to over 60 feet tall with a canopy spread exceeding 80 feet, often rivaling or surpassing their height in lateral reach.

Live oaks are exceptionally wind resistant and long-lived, making them a preferred species in coastal communities prone to hurricanes and tropical storms. However, their size and vigor can present challenges in urban environments. Root systems are notoriously aggressive and expansive. The species requires ample lateral space to develop properly and can cause significant damage to nearby homes, driveways, sidewalks, or overhead utilities if planted too close. When planted in the wrong location, long-term maintenance costs and infrastructure conflicts can be significant.

Best Practices & Recommendations for Live Oak Planting

Below are responses to the Town's specific inquiries, integrated with broader arboricultural best practices:

1. Recommended Distance from Slab Foundation

➡ **Minimum: 15–20 feet**
Live oaks have aggressive, expansive root systems. Planting closer than 15 feet to a slab foundation increases the risk of root encroachment over time, especially if soil moisture gradients or irrigation attract roots toward the home. A 20-foot buffer is ideal for long-term separation.

2. Distance from Driveways & Streets

➡ **Minimum: 8–10 feet from driveways / ~ 4+ feet from street edge**
Live oak roots are more likely to impact concrete driveways than streets, especially when planted too close to paved surfaces. Maintaining an 8–10 foot buffer from driveways helps avoid structural damage and reduces the need for invasive root pruning. Streets are of lesser concern. While minor lifting of asphalt can occur near street edges, it's relatively uncommon. Live oaks generally perform well as street or median trees when adequate soil volume is available.

3. Distance from Pools

➡ **Minimum: 15–20 feet**
Live oak roots typically remain in the first 2–4 feet of soil (much closer to 2 feet due to Florida's loose sandy soils) and are much less likely to grow downward or intrude directly into pool walls. However, their sheer size and vigor can create pressure on pool shells or decking if planted too close. Leaf drop and debris are also a nuisance in pool zones. A 15–20 foot buffer helps minimize encroachment, reduces cleanup needs, and avoids potential conflicts with underground infrastructure or future hardscape maintenance. Spacing can be adjusted based on soil conditions and yard layout.

4. Should Live Oaks Be Planted to Avoid Growing Over Roofs?

➡ **Ideally, yes—but not mandatory**
Overhanging limbs can drop large volumes of leaf litter and acorns, and may potentially pose a

branch-fall risk in storms. While trained canopy growth over roofs can be managed with proper pruning, it's best avoided near two-story homes or steep rooflines.

5. Distance from Overhead Power Lines

➡ **Minimum: 20–30 feet lateral spacing**
Live oaks grow very tall and wide, and they are absolutely not recommended for utility easements. Planting directly under or adjacent to overhead power lines guarantees future clearance conflicts and aggressive pruning. Trees should be placed well outside utility easements to preserve natural form and avoid infrastructure issues.

6. Can a Live Oak Be Planted in a Stormwater Swale?

➡ **No, planting directly in swales is not recommended**
Swales are engineered drainage features. Tree roots can impede flow, destabilize grading, or lead to erosion. Waterlogging may also stress young trees or promote root rot. Older established trees will develop aggressive surface roots within the swale in search of oxygen.

7. Can a Live Oak Be Planted on the Side of a Swale?

➡ **Possibly, if sufficient elevation and distance is maintained**
Trees may be planted atop the swale berm or shoulder if:

- Drainage grades are not compromised
- Root flare is positioned above expected waterline
- Adequate spacing from structures is still maintained
  This can be a workable compromise, especially for rear yard planting.

8. How Far Apart Should Live Oaks Be Planted?

➡ **Minimum: 20–30 feet apart**
Live oaks develop massive horizontal canopies, extending up to 80 feet across (though this is admittedly much less common in coastal regions). Still, to prevent crown competition, limb interlock, and overcrowding, it is recommended to maintain generous spacing between specimens. Cluster planting is not recommended on narrow lots.

9. Best Size for Planting

➡ **Container-grown, 30–65 gallon stock (~1.5–2.5" caliper)**
Smaller, container-grown trees transplant more successfully, establish faster, and develop stronger root architecture. Larger field-grown specimens may look impressive but often suffer transplant shock and require more intensive aftercare. A 30–65 gallon live oak strikes the right balance for establishing a long-term canopy tree without overwhelming the site or irrigation needs.

Additional Notes and Policy Guidance

- **Avoid rigid mandates.** Due to narrow setbacks, overhead lines, and stormwater infrastructure, mandating live oaks on every lot may cause unintended design conflicts or resentment from homeowners. Consider a **recommended placement matrix** tied to lot width, power line presence, and yard orientation.

- **Offer species flexibility.** Where live oaks aren't viable, consider approved alternative canopy trees with less aggressive root systems and narrower growth habits.

- **Incentivize preferred planting.** Instead of mandates, offer incentives (e.g., reduced fees, fast-tracked reviews) for lots that voluntarily incorporate canopy trees per guidelines.

Conclusion

Live oaks are among the most iconic and valuable canopy trees in Florida, offering substantial ecological, aesthetic, and shade benefits. However, their size, vigor, and structural needs make them difficult to accommodate on all residential lots. Where setbacks are narrow and infrastructure is tightly packed, the decision to plant a live oak should be made carefully, based on the specific layout and constraints of the property.

Mandating live oaks on every parcel is not advisable. A more effective approach is to encourage planting where feasible and offer species alternatives where conditions are not suitable. Homeowners should be supported with clear guidance and flexible options rather than rigid requirements.

In neighborhoods where private lots lack space, live oaks can still play a valuable role as public trees. When used in medians or along wider rights-of-way, they provide long-term canopy coverage without conflicting with private structures or utilities. With thoughtful planning and routine maintenance, live oaks can be integrated into the urban landscape in ways that balance homeowner needs with the town's canopy goals.

Arborist Disclosure Statement

ISA certified arborists are tree care specialists who use their education, knowledge, training, and experience to examine trees, recommend measures to enhance the health and beauty of trees, and attempt to reduce the risk of living near trees. Clients may choose to accept or disregard the recommendations of the arborist, or to seek additional advice.

Arborists cannot detect every condition that could possibly lead to the structural failure of a tree. Trees are living organisms that fail in ways we do not fully understand. Conditions are often hidden within the trees and below ground. Arborists cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specified period of time. Likewise, the efficacy of any remedial treatments, such as pruning, fertilization, or medicine, also cannot be guaranteed.

Treatment, pruning, and removal of trees may involve considerations beyond the scope of the arborist's services such as property boundaries, property ownership, site lines, disputes between neighbors, and other issues. Arborists cannot take such considerations into account unless complete and accurate information is disclosed to the arborist. An arborist should then be expected to reasonably rely upon the completeness and accuracy of the information provided.

Disclaimer and Acknowledgment of FL Statute 163.045

My observations made at the site were true and factual to the best of my ability. The methodologies used were in accordance with the code of ethics and tree assessment guidelines laid out by the International Society of Arboriculture (ISA) as well as the ANSI A300 standards. Arboriculture is not a perfect science, and subjectivity is inevitable as different arborists will often have different opinions based on their own personal experiences. My opinions and recommendations are based purely on my education and over a decade of experience actively climbing and working in trees.

Trees can be managed but they cannot be controlled. To live near trees is to accept some degree of risk. The only way to eliminate all risk associated with trees is to remove all trees. There are no certainties when ascertaining the structural integrity of trees, only qualitative likelihoods. The tree owner's personal risk tolerance is, and always should be, the ultimate deciding factor when moving forward with any recommended procedures.



FACTS TO CONSIDER

Proposed Mandated Native plant requirements for new home construction



Melbourne Beach Native Plant Facts and Considerations

Comprehensive Plan for Melbourne Beach:

Chapter 2, Policy 14.1; Periodically review, analyze and amend, as determined necessary, the tree preservation and landscape ordinances to ensure that minimum standards are **consistent with the desires of the community**, are easily understood and enforceable.

Desires of the Melbourne Beach community, per below, are for traditional landscapes not mandated native plant landscapes.

- Only 1 out of 15 surrounding cities/counties mandate any number of native plants on new house construction
  (See attached exhibit 1)

- Survey to determine what percentage of existing residents have adopted native plant landscapes. Conclusion 20% adopted native plants and 80% choose traditional landscaped yards.
  (Streets included in survey; Surf Road, 3rd Ave. 2nd Ave, Ash, Birch, and Cherry; 214 homesites).

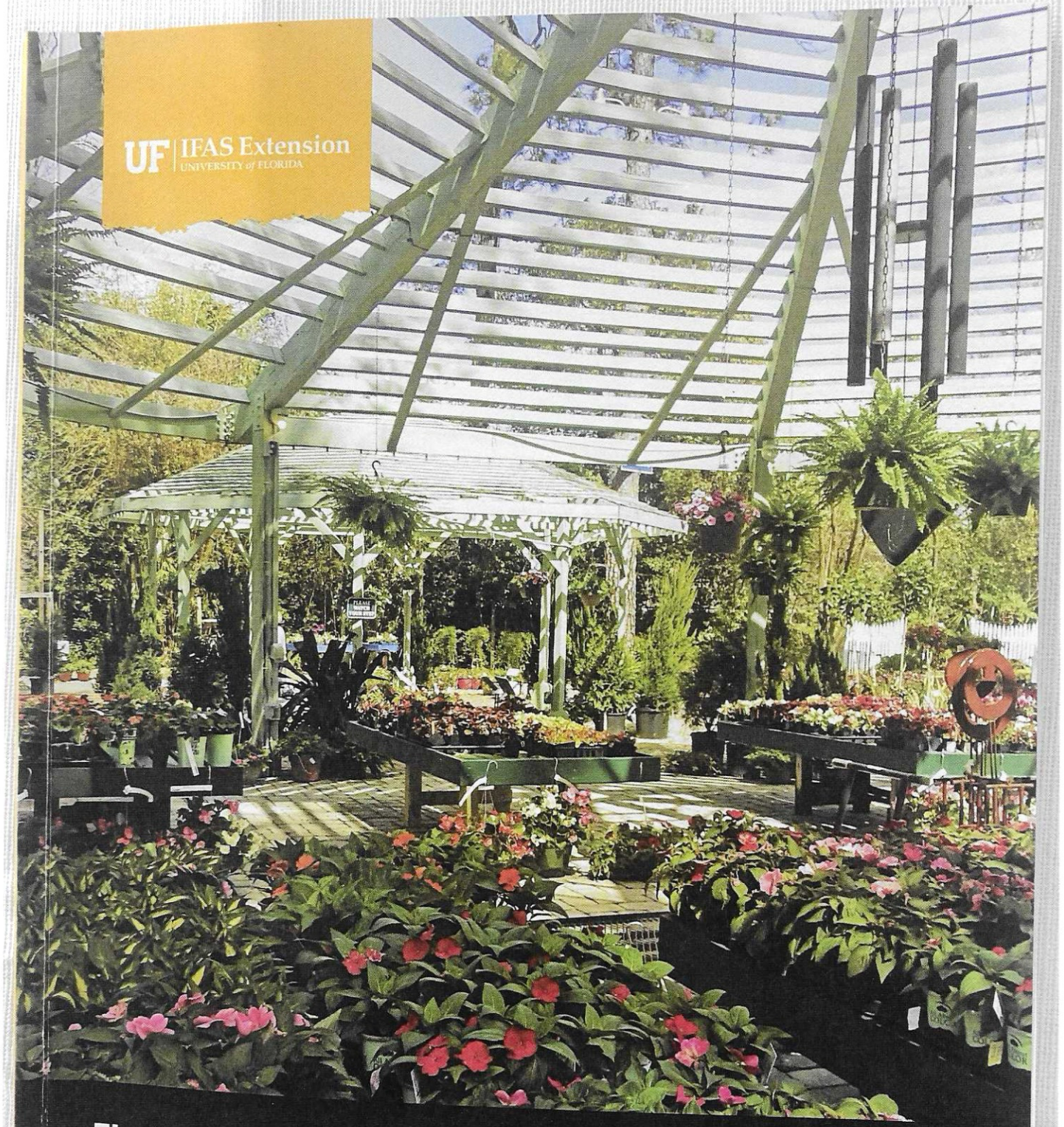
- Survey of 26 recent new houses constructed in Melbourne Beach resulted in only 1 out of 26 adopting a native plant landscape. 96% Choose traditional non-native landscapes.

Division of Environmental Contributions

- New homes being constructed already carry a disproportional share of the environmental requirements (stormwater swales) that the entire community benefits from.

EXHIBIT 1

	City/County	Ordinance Reference	Requires Native Plants In Single Family Residence NO	YES	Comments
BEACHSIDE/NEIGHBORING CITIES					
1	Vero Beach	Title II, Sec. 72.13 (a)	NO		
2	Indian Harbour Beach	Sec. 107-2	NO		
3	Indiatlantic	Article VII Landscaping	NO		
4	Cocoa Beach	Sec. 3-51, 3-52	NO		
5	West Melbourne	Sec. 71-116	NO		
6	Melbourne	Sec. 9.273	NO		
7	Rockledge	Sec. 108.163, 164,165	NO		
8	Palm Bay	Sec. 175.021, 175.027	NO		
9	Titusville	Chapter 30, Division 2	NO		
10	Sebastian	Article XIV, Section 54	NO		
11	Ft Pierce	Article II, Sec. 123.36	NO		
12	Brevard County	Sec. 62-4341	NO		
13	City of Cocoa	Email from City	NO		
14	Indian River County	Sec. 926-15 Appendix A	NO		
15	Satellite Beach	Sec. 30-702		YES	Requires 50% native, but Most are minimalist landscape design Example new subdivision; the View



Florida-Friendly Landscaping™ Guide to Plant Selection & Landscape Design

Florida-Friendly Landscaping™ PROGRAM

Florida Friendly Landscape Recommendations

- Florida Friendly Landscaping Guide to Plant Selection & Landscape Design, published by the University of Florida/IFAS Extension Service, includes numerous non-native trees and plants in their recommended *Florida-Friendly Landscape Plant List*.

Large shrubs—recommendations include over 50 non-native shrubs.
Small shrubs—75% of the recommended small shrubs were non-native.
Vines—50% of the recommended vines were non-native.
Ground covers—54% of the recommended ground covers were non-native.
Grasses—23% of the recommended grasses were non-native.
Palms and Palm Like Plants—70% of the recommended Palms were non-native.
Ferns—40% of recommended Ferns were non-native.
Perennial Plants—77% of recommended Perennials were non-native.
Annual Plants—85% of recommended Annual Plants were non-native.

CHAPTER 9A: LANDSCAPING AND TREES

Section

Article I. Landscaping

9A-1 Definition

9A-2 Intent

9A-3 Applicability

9A-4 Permit required for cutting down tree

9A-5 Application for permit; review of application

9A-6 On-site inspection

9A-7 Minimum tree plantings

9A-8 Tree protection

9A-9 Trees on public lands

9A-10 Exceptions

9A-11 Reserved

9A-12 Penalty

9A-13 – 9A-99 Reserved

ARTICLE I. LANDSCAPING

EXISTING

§ 9A-1. DEFINITION.

For the purpose of this article the following definitions shall apply unless the context clearly indicates or requires a different meaning.

YARD AREA. The front, side and rear yard areas as established and required by Chapter 7A.

(`75 Code, § 22-17) (Ord. 75-3, passed 5-27-75; Am. Ord. 2017-05, adopted 12-20-17)

PROPOSED

§ 9A-1. DEFINITION.

For the purpose of this article the following definitions shall apply unless the context clearly indicates or requires a different meaning.

~~***TREE.*** A Florida native tree species with a trunk diameter of four inches (4") diameter at breast height (dbh) or greater, and a native palm with a minimum clear trunk height of eight feet (8').~~

YARD AREA. The front, side and rear yard areas as established and required by Chapter 1A.

(`75 Code, § 22-17) (Ord. 75-3, passed 5-27-75; Am. Ord. 2017-05, adopted 12-20-17)

EXISTING

§ 9A-2. INTENT.

The intent of this article is to preserve trees whenever and wherever they exist and to provide trees wherever they are sparse or do not exist, thus enhancing the health, welfare and beautification of the Town. The intent of the article also includes the encouragement of "Florida Friendly Landscaping" as defined by § 375.185(b), Fl. Stat. and "Florida Native Landscaping" as defined by the University of Florida's Institute of Food and Agricultural Sciences (IFAS).

(`75 Code, § 22-16) (Ord. 75-3, passed 5-27-75; Am. Ord. 2017-05, adopted 12-20-17)

PROPOSED

§ 9A-2. INTENT.

The intent of this article is to define Florida native and invasive plant species, establish provisions for the preservation and replacement of native species and removal of invasive species, and to provide a procedure for Town review and approval of tree removal applications and landscape development applications.

The intent of this article is also to preserve Florida native & Florida friendly trees whenever and wherever they exist and to provide trees wherever they are sparse or do not exist, when possible and reasonable, thus enhancing the health, welfare and beautification of the Town. The intent of the article also includes the encouragement of "Florida Friendly Landscaping" as defined by § 375.185(b), Fl. Stat. and "Florida Native Landscaping" as defined by the University of Florida's *Institute of Food and Agricultural Sciences (IFAS).*

Landscaping and trees benefit the Town by performing the following functions:

- *Improve air quality through the absorption of carbon dioxide and release of oxygen to the atmosphere.*
- *Remove dust and other particulates from the air.*
- *Provide wildlife habitat, particularly for birds which, in turn, help control insects.*
- *Provide soil stabilization, which reduces erosion and mitigates the effect of flooding.*
- *Provide shade to conserve energy, reduce glare, modulate temperature and reduce heat island effects.*
- *Provide barrier to ground-level wind speeds during tropical storms and hurricanes*
- *Enhance the Town's attractiveness.*
- *Provide attractive buffering between different land uses.*
- *Reduce noise and surface water runoff.*
- *Maintain preservation of native ecosystems for future generations.*

(`75 Code, § 22-16) (Ord. 75-3, passed 5-27-75; Am. Ord. 2017-05, adopted 12-20-17)

EXISTING – No Changes

§ 9A-3. APPLICABILITY.

The terms and provisions of this article shall apply to all real property in all zoning districts.

(`75 Code, § 22-18) (Ord. 75-3, passed 5-27-75; Am. Ord. 87-13, passed 9-22-87; Am. Ord. 2017-05, adopted 12-20-17)

EXISTING

§ 9A-4. PERMIT REQUIRED FOR CUTTING DOWN TREE.

No person, organization, society, association or corporation, or any agent or representative thereof, directly or indirectly, shall cut down, destroy, remove, move or effectively destroy through damaging any tree situated on property in any zoning district without first obtaining a permit as herein provided. Tree removal on any property in any zoning district shall be in accordance with the standards mandated in the most recent edition of the Best Management Practices - Tree Risk Assessment published by the International Society of Arboriculture or a certification from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect as to substantial compliance with such standards. Any tree which poses an unacceptable risk may qualify for removal without a permit pursuant to Fla. Stat. § 163.045 or as such section may be amended

(`75 Code, § 22-19(a)) (Ord. 75-3, passed 5-27-75; Am. Ord. 2017-05, adopted 12-20-17; Ord. 2023-01, adopted 3-15-23)

PROPOSED

§ 9A-4. PERMIT REQUIRED FOR ~~CUTTING DOWN~~ TREE REMOVAL.

No person, organization, society, association or corporation, or any agent or representative thereof, directly or indirectly, shall cut down, destroy, remove, move or effectively destroy through damaging any ~~native Tree or cluster of Trees including palm trees, scrub oak or sand live oak of any size, as defined herein~~, situated on property in any zoning district without first obtaining a permit as herein provided. Tree removal on any property in any zoning district shall be in accordance with the standards mandated in the most recent edition of the *Best Management Practices - Tree Risk Assessment* published by the International Society of Arboriculture or a certification from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect as to substantial compliance with such standards. Any tree which poses an unacceptable risk may qualify for removal without a permit pursuant to Fla. Stat. § 163.045 or as such section may be amended

(`75 Code, § 22-19(a)) (Ord. 75-3, passed 5-27-75; Am. Ord. 2017-05, adopted 12-20-17; Ord. 2023-01, adopted 3-15-23)

EXISTING

§ 9A-5. APPLICATION FOR PERMIT; REVIEW OF APPLICATION.

(a) Application. Permits for removal, relocation, or replacement of trees covered herein, shall be obtained by making application for a permit to the Building Official. The application shall be accompanied by a written statement indicating the reason for removal, relocation, or replacement of trees and two copies of a legible site plan drawn to a minimum scale of one inch equals 20 feet, indicating the following:

(1) Location of all existing or proposed structures, improvements, and sites used, properly dimensioned and referenced to property lines, setback, and yard requirements;

(2) Location of existing or proposed utility services, when known;

(3) The location of all trees on the site designating the trees to be retained, removed, relocated, or replaced. Groups of trees in close proximity may be designated as clumps of trees with the predominant type and estimated number and average diameter noted. Only those trees to be removed, relocated, or replaced must be named (common or botanical name) on the site plan;

(4) The tree information required above shall be summarized in legend form on the plan and shall include the reason for the proposed removal, relocation, or replacement; and

(5) An application involving developed properties may be based on drawings showing only that portion of the site directly involved, and adjacent structures and landscaping or natural growth incidental thereto.

(b) Application review. Upon receipt of a proper application, the Building Official shall review the application, which will include a field check of the site and referral of the application to others concerned as necessary, to determine any adverse effect upon the general public welfare, adjacent properties, or Town services and facilities.

(`75 Code, § 22-19(b), (c)) (Ord. 75-3, passed 5-27-75; Am. Ord. 2017-05, adopted 12-20-17; Am. Ord. 2023-01, adopted 3-15-23) Penalty, see § 9A-12

PROPOSED

§ 9A-5. APPLICATION FOR PERMIT; REVIEW OF APPLICATION.

(a) Application. Permits for removal, relocation, or replacement of trees covered herein, shall be obtained by making application for a permit to the Building Official. The application shall be accompanied by a written statement indicating the reason for removal, relocation, or replacement of trees and two copies of a legible site plan drawn to a minimum scale of one inch (1") equals ~~20~~ twenty feet (20'), indicating the following ~~and including a tree survey accurately locating the trees in relationship to other improvements and including a legend identifying the type and size of trees:~~

(1) Location of all existing or proposed structures, improvements, and sites used, properly dimensioned and referenced to property lines, setback, and yard requirements;

(2) Location of existing or proposed utility services ~~and drainage plan~~;

(3) The location of all trees on the site designating the trees to be retained, removed, relocated, or replaced. Groups of trees in close proximity may be designated as clumps of trees with the predominant type and estimated number and average diameter noted. Only those trees to be removed, relocated, or replaced must be named (common or botanical name) on the site plan;

(4) The tree information required above shall be summarized in legend form on the plan and shall include the reason for the proposed removal, relocation, or replacement; and

(5) An application involving developed properties may be based on drawings showing only that portion of the site directly involved, and adjacent structures and landscaping or natural growth incidental thereto.

(b) Application review. Upon receipt of a ~~proper~~ complete application, the Building Official shall review the application, which will include a field check of the site and referral of the application to ~~others concerned~~ other departments including planning and engineering as necessary, to determine any adverse effect upon the general public welfare, adjacent properties, or Town services and facilities.

(`75 Code, § 22-19(b), (c)) (Ord. 75-3, passed 5-27-75; Am. Ord. 2017-05, adopted 12-20-17; Am. Ord. 2023-01, adopted 3-15-23) Penalty, see § 9A-12

EXISTING

§ 9A-6. ON-SITE INSPECTION.

(a) On-site inspection. Prior to the issuance of a permit for tree removal or relocation, the Building

Official or his agent shall conduct an on-site inspection to determine whether or not such a removal or relocation conforms to the requirements of this chapter.

(b) Issuance.

(1) Removal. No permit shall be issued for tree removal unless one of the following conditions exists:

a. The tree is located in a buildable area or yard where a structure or improvements may be placed where inability to remove the tree would unreasonably restrict the permitted use of the property and the tree removal has been authorized by the Town as part of a site plan review;

b. The tree cannot be relocated on or off the site because of age, type, or size of tree;

c. The tree is diseased, dead, injured, in danger of falling, too close to existing or proposed structures, interferes with utility service, creates unsafe vision clearance, or conflicts with other ordinances or regulations; or

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

(2) Relocation or replacement. As a condition to the granting of a permit, the applicant may be required, where practical, to relocate the tree being removed or be required to replace the tree being removed with a tree somewhere within the site of the type that will attain an overall height of at least twelve feet (12') and have a trunk caliper of at two inches (2") at planting, measured four and one-half feet (4.5') above grade. The green areas left after all building and parking lot requirements have been met shall contain a tree density equal to or greater than that existing on the overall site before the beginning of construction.

(`75 Code, § 22-19(d)) (Ord. 75-3, passed 5-27-75; Am. Ord. 2017-05, adopted 12-20-17; Am. Ord. 2023-01, adopted 3-15-23) Penalty, see § 9A-12

§ 9A-6. ~~ON-SITE INSPECTION~~ CRITERIA FOR TREE REMOVAL PERMITTING.

(a) On-site inspection. Prior to the issuance of a permit for tree removal or relocation (and prior to issuance of a certificate of occupancy in the case of new construction), the Building Official or his agent shall conduct an on-site inspection to determine whether or not such a removal or relocation conforms to the requirements of this chapter.

(b) Issuance.

(1) Removal. No permit shall be issued for tree removal unless one of the following conditions exists:

a. The tree is located in a buildable area or yard of the property where a structure or improvements may be placed and where inability to remove the tree would unreasonably restrict the permitted use of the property and the tree removal has been authorized by the Town as part of a site plan review;

b. The tree cannot be relocated on or off the site because of age, type, or size of tree;

c. The tree is diseased, dead, injured, in danger of falling, too close to existing or proposed structures, interferes with utility service, creates unsafe vision clearance at intersections or road entries, or conflicts with other ordinances or regulations; or

d. It is in the welfare of the general public that the tree be removed for a reason other than set forth above and in accordance with Florida Statute 163.045 Tree pruning, trimming, or removal on residential property. .

e. (a) Mangroves can only be trimmed per state code. 1996 Mangrove Trimming and Preservation Act (sections 403.9321-403.9333, F.S.)

(2) Relocation or replacement. As a condition to the granting of a permit, the applicant ~~may~~ will be required, where practical, to relocate the tree being removed or be required to replace the tree being removed with a tree ~~somewhere within the site~~ on the property of the same or similar species ~~type~~ that will attain an overall height of at least twelve feet (12') and have a trunk caliper of at least ~~four~~ two inches (24") dbh at planting for canopy trees; , and a ~~measured four and one-half feet (4.5') above grade~~ minimum clear trunk height of eight feet (8') for Palms. ~~The green areas left after all building and parking lot requirements have been met shall contain a tree density equal to or greater than that what was existing on the overall site before the beginning of construction.~~A permit to relocate a tree will be granted only if there is a reasonable expectation that the tree will survive the relocation and thrive in the new location. The Town may require a recommendation from a Department of Agriculture Forester or a Certified Arborist to determine and assure that the tree is of a species which can be successfully moved at its current size and that all conditions for its survival are being met in the plan to relocate.

(`75 Code, § 22-19(d)) (Ord. 75-3, passed 5-27-75; Am. Ord. 2017-05, adopted 12-20-17; Am. Ord. 2023-01, adopted 3-15-23) Penalty, see § 9A-12

EXISTING

§ 9A-7. MINIMUM TREE PLANTINGS.

(a) Trees in residential zoning districts. Trees planted must be of a variety which is compatible with the existing soil and drainage-conditions and must be provided with adequate water and food materials to encourage growth. Trees shall be planted in locations so as not to cause danger to nor interference with existing structures at the time of maturity.

(b) Buffer and tree planting requirements for all non-residential and multiple family residential uses.

(1) A landscape buffer with a minimum of ten feet in width shall be provided between any residentially zoned property and a property utilized for a non-residential or multiple family residential use. Responsibility for providing a landscape buffer shall be upon the nonresidential or multifamily use. The landscape buffer shall include a minimum of one canopy tree for every 40 linear feet, or fraction thereof. In addition one ornamental tree or palm shall be planted for each 50 linear feet, or fraction thereof.

(2) A landscape buffer with a minimum of ten feet in width shall be provided along all road frontage of the site. The landscape buffer shall include a minimum of one canopy tree for every 25 feet of frontage, or fraction thereof.

(3) A continuous hedge shall be planted in all perimeter landscape buffer areas.

(4) Parking areas shall be designed so that there is a minimum of 200 square feet of open space, not including perimeter landscape buffer areas, at the end of each row of parking. In addition a minimum of 200 square feet of open space shall be provided in the interior of the parking lot for each ten parking spaces, or fraction thereof. These open spaces shall be distributed throughout the parking lot in a manner that no more than ten parking spaces in a row shall be allowed without an intervening landscaped area.

(5) Minimum specifications for trees and hedge material shall be as follows:

a. Canopy trees at the time of planting shall have a trunk diameter of two inches measured four and one-half feet above grade. The trees shall be a minimum of eight feet in height and have a minimum spread of five feet. The trees are not required to be spaced evenly along property lines.

b. Ornamental trees at the time of planting shall have a trunk diameter of one and one-half inches measured four and one-half feet above grade. The trees shall be a minimum of six feet in height and have a minimum spread of four feet.

c. Palms at the time of planting shall have a minimum clear trunk of eight feet.

d. Hedge material at the time of planting shall be a minimum of 18 inches in height when planted. Individual plants shall be planted a maximum of 24 inches on center.

(6) All plant material shall be Florida Number 1 in quality and shall be planted according to sound landscape installation standards.

(7) All landscaping shall be maintained to present a neat and orderly appearance. Dead, deteriorating or missing landscape material shall be replaced with substantially equivalent landscaping as permitted by the Land Development Code. Replacement of landscaping material shall occur within 60 days, unless said time is extended by the Town Manager for good cause shown.

(8) Exceptions shall be considered on an individual basis when obstacles such as overhead power lines or other conditions inhibit the ability to comply.

(9) Canopy trees shall be those that develop a crown spread of 25 feet or greater at maturity. Trees with less than 25 feet of crown spread at maturity shall be considered ornamental trees.

(10) Clusters of three palms shall be an acceptable substitute for up to 50% of the required canopy trees and 50% of the required ornamental trees.

(11) Landscape material should be drought tolerant to the extent practical and feasible. A water source shall be available to ensure the plant material can be watered while it is being established and during drought occurrence. Automatic irrigation systems may be utilized.

(12) Currently developed sites that do not meet the landscape requirements will not be considered non-conforming. Landscaping consistent with the regulations shall be installed at these sites, to the extent practical, as redevelopment occurs. Unless complete reconstruction or rehabilitation that results in closure of a building or buildings for a period of over six months occurs, full compliance with this section shall not be required.

(c) Minimum replacement standards for new construction. Any trees that are removed for new construction shall be replaced by the same or similar species. Specifically for mature oak trees, replacement of one (1) similar species for each tree removed shall be required which at a minimum will attain an overall height of at least twelve feet (12') and have a trunk caliper of at least two inches (2") at planting, measured four and one-half feet (4.5') above grade.

(d) Maintenance of trees and landscaping. If the removal of any tree or landscaping from any lot causes the number of remaining trees or vegetative species to fall below the minimum standards required by this section or as reflected on any approved site plan or landscaping plan for said lot, replacement trees or vegetative species meeting the requirements of this section or any approved site plan or landscaping plan shall be re-planted on the lot within thirty (30) days after removal.

(`75 Code, § 22-20) (Ord. 75-3, passed 5-27-75; Am. Ord. 87-13, passed 9-22-87; Am. Ord. 2008-08, adopted 9-3-08; Am. Ord. 2009-03, adopted 4-15-09; Am. Ord. 2017-05, adopted 12-20-17; Am. Ord. 2023-01, adopted 3-15-23) Penalty, see § 9A-12

§ 9A-7. ~~MINIMUM TREE PLANTINGS.~~LANDSCAPE PLANS

(a) Landscaping in ~~all zoning districts.~~ single-family residential zones.

(1) Landscaping plans for lots to be developed or redeveloped should be submitted to the Town with building plans prior to Planning and Zoning Board submission.

(2~~1~~) All lots to be developed or re-developed shall be landscaped in accordance with this chapter prior to the issuance of a final building inspection or certificate of occupancy.

(3~~2~~) Landscaping plans are encouraged to incorporate Florida-friendly landscaping and Florida native landscaping principles consistent with the guidelines, including the use of drought-tolerant ~~native~~ plants, efficient irrigation systems, and soil amendments that promote water retention.~~, Landscaping plans shall be comprised of 50% native plants selected from the current edition of the Florida Native Plant Society's list of native plants, as applicable to the East Central Florida Region.~~

(4~~3~~) Plants in the Florida Invasive Species Council's most current list of invasive species shall be removed from a property during development or redevelopment and shall not be planted as part of the approved landscape plan.

(5~~4~~) Minimum replacement standards for new house construction ~~/development or re-development under the guidelines of the Land Development Code: Any trees that are removed for new construction or reconstruction shall be replaced by the same or similar species~~. Specifically for mature oak trees replacement of one (1) similar species for each tree removed shall be required. ~~which at a minimum will attain an overall height of at least twelve feet (12') and have a trunk caliper of at least two four (4) inches dbh(2") at planting, measured four and one-half feet (4.5') above grade.~~ A minimum of eight (8) trees must be on the lot, including any oak trees.

(a) Trees in residential zoning districts. Trees planted must be of a variety which is compatible with the existing soil and drainage-conditions and must be provided with adequate water and food materials to encourage growth. Trees shall be planted in locations so as not to cause danger to nor interference with existing structures at the time of maturity.

(6~~5~~) Minimum specifications for trees and hedge material shall be as follows:

a. At a minimum, trees will attain an overall height of at least twelve feet (12') and have a trunk caliper of at least two inches (2") dbh at planting, measured four and one-half feet (4.5') above grade.

b. Canopy trees at the time of planting shall have a trunk diameter of ~~four (4)~~ two inches (2") dbh. The trees shall be a minimum of ~~eight~~ five feet (5') in height and have a minimum spread of ~~five~~ four feet (4'). ~~The trees are not required to be spaced evenly along property lines.~~

c. Trees smaller than canopy trees shall at the time of planting have a trunk diameter of one and one-half inches measured four and one-half feet above grade. The trees shall be a minimum of six feet in height and have a minimum spread of four feet.

d. Palms at the time of planting shall have a minimum clear trunk of eight feet.

~~d. Hedge material at the time of planting shall be a minimum of eighteen (18) inches in height when planted. Individual plants shall be planted a maximum of 24 inches on center.~~

(7~~6~~) All plant material shall be Florida Number 1 in quality and shall be planted according to sound landscape installation standards.

(8~~7~~) All landscaping shall be maintained to present a neat and orderly appearance. Dead, deteriorating or missing landscape material shall be replaced with substantially equivalent landscaping as permitted by the

Land Development Code. Replacement of landscaping material shall occur within 60 days, unless said time is extended by the Town Manager for good cause shown.

(98) Exceptions shall be considered on an individual basis based upon demonstrated unique characteristics of the site in question. Any such reduction or relocation shall comply with the intent of this chapter.

(109) Canopy trees shall be those that develop a crown spread of 25 feet or greater at maturity. Trees with less than twenty-five (25) feet of crown spread at maturity shall be considered ornamental trees or small trees.

~~(10) Clusters of three palms shall be an acceptable substitute for up to 50% of the required canopy trees and 50% of the required ornamental trees.~~

~~(11) Landscape material should be drought tolerant to the extent practical and feasible. A water source shall be available to ensure the plant material can be watered while it is being established and during drought occurrence. Automatic irrigation systems may be utilized.~~

~~(12) Currently developed sites that do not meet the landscape requirements will not be considered non-conforming. Landscaping consistent with the regulations shall be installed at these sites, to the extent practical, as redevelopment occurs.of over six months occurs, full compliance with this section shall not be required.~~

(b) Buffer and tree planting requirements for all non-residential and multiple family residential uses in addition to (5-9) above.

(1) A landscape buffer with a minimum of ten feet in width shall be provided between any residentially zoned property and a property utilized for a non-residential or multiple family residential use. Responsibility for providing a landscape buffer shall be upon the nonresidential or multifamily use. The landscape buffer shall include a minimum of one ~~native~~ Florida-friendly canopy tree for every 40 linear feet, or fraction thereof. In addition, one ~~ornamental~~ smaller tree or palm shall be planted for each 50 linear feet, or fraction thereof.

(2) A landscape buffer with a minimum of ten feet in width shall be provided along all road frontage of the site. The landscape buffer shall include a minimum of one canopy tree for every 25 feet of frontage, or fraction thereof.

(3) A continuous hedge shall be planted in all perimeter landscape buffer areas.

(4) Parking areas shall be designed so that there is a minimum of two hundred (200) square feet of open space, not including perimeter landscape buffer areas, at the end of each row of parking. In addition, a minimum of two hundred (200) square feet of open permeable green space shall be provided in the interior of the parking lot for each ten parking spaces, or fraction thereof. These open spaces shall be distributed throughout the parking lot in a manner that no more than ten parking spaces in a row shall be allowed without an intervening landscaped area.

~~(5) Minimum specifications for trees and hedge material shall be as follows:~~

~~a. Canopy trees at the time of planting shall have a trunk diameter of two four (4) inches dbh measured four and one-half feet above grade. The trees shall be a minimum of eight feet in height and have a minimum spread of five feet. The trees are not required to be spaced evenly along property lines.~~

~~b. Ornamental tTrees smaller than canopy trees at the time of planting shall at the time of planting have a trunk diameter of one and one-half inches measured four and one-half feet above grade. The trees shall be a minimum of six feet in height and have a minimum spread of four feet.~~

~~c. Palms at the time of planting shall have a minimum clear trunk of eight feet.~~

~~d. Hedge material at the time of planting shall be a minimum of eighteen (18) inches in height when planted. Individual plants shall be planted a maximum of 24 inches on center.~~

~~(6) All plant material shall be Florida Number 1 in quality and shall be planted according to sound landscape installation standards.~~

~~(7) All landscaping shall be maintained to present a neat and orderly appearance. Dead, deteriorating or missing landscape material shall be replaced with substantially equivalent landscaping as permitted by the Land Development Codein 9A-7(a). Replacement of landscaping material shall occur within sixty (60) days of loss, unless said time is extended by the Town Manager for good cause shown.~~

~~(8) Exceptions shall be considered on an individual basis based upon demonstrated unique characteristics of the site in question)- Any such reduction or relocation shall comply with the intent of this chapterwhen obstacles such as overhead power lines or other conditions inhibit the ability to comply.~~

~~(9) Canopy trees shall be those that develop a crown spread of 25 feet or greater at maturity. Trees with less than twenty five (25) feet of crown spread at maturity shall be considered ornamental trees.~~

~~(10) Clusters of three palms shall be an acceptable substitute for up to 50% of the required canopy trees and 50% of the required ornamental trees.~~

~~(11) Landscape material should be drought tolerant to the extent practical and feasible. A water source shall be available to ensure the plant material can be watered while it is being established and during drought occurrence. Automatic irrigation systems may be utilized.~~

~~(12) Currently developed sites that do not meet the landscape requirements will not be considered non-conforming. Landscaping consistent with the regulations shall be installed at these sites, to the extent practical, as redevelopment occurs. Unless complete reconstruction or rehabilitation that results in closure of a building or buildings for a period of over six months occurs, full compliance with this section shall not be required.~~

~~(c) Minimum replacement standards for new constructiondevelopment or re-development under the guidelines of the Land Development Code. Any trees that are removed for new construction shall be replaced by the same or similar species. Specifically for mature oak trees 10 years old or more, replacement of one (1) two for one similar species for each tree removed shall be required which at a minimum will attain an overall height of at least twelve feet (12') and have a trunk caliper of at least two four (4) inches dbh(2") at planting, measured four and one-half feet (4.5') above grade. The two for one oak replacement is required until the mini number of canopy trees required has been met.~~

~~(a~~c~~)~~ ~~Trees in residential zoning districts. Trees planted must be of a variety which is compatible with the existing soil and drainage conditions and must be provided with adequate water and food materials to encourage growth. Trees shall be planted in locations so as not to cause danger to nor interference with existing structures at the time of maturity.~~

(c~~d~~) Maintenance of trees and landscaping. If the removal of any tree or landscaping from any lot causes the number of remaining trees or vegetative species to fall below the minimum standards required by this section or as reflected on any approved site plan or landscaping plan for said lot, replacement trees or vegetative species meeting the requirements of this chapter section or any approved site plan or landscaping plan shall be re-planted on the lot within thirty (30) days after removal.

(`75 Code, § 22-20) (Ord. 75-3, passed 5-27-75; Am. Ord. 87-13, passed 9-22-87; Am. Ord. 2008-08, adopted 9-3-08; Am. Ord. 2009-03, adopted 4-15-09; Am. Ord. 2017-05, adopted 12-20-17; Am. Ord. 2023-01, adopted 3-15-23) Penalty, see § 9A-12

EXISTING

§ 9A-8. TREE PROTECTION.

(a) Protection of trees during land-clearing.

(1) Trees that are retained during land-clearing can be applied toward total tree requirements for the property. Prior to land-clearing, on-site protection must be initiated by constructing suitable protective barricades around trees to prevent mechanical damage. Barriers should be constructed around individual trees or groups of trees that are susceptible to mechanical damage. Prior to any land-clearing activity, a visual inspection of the site will be made by the Building Official before a land-clearing permit is issued. The land-clearing permit must be posted on-site. Only land-clearing is permitted within the drip line of the tree to be protected.

(2) On-site protection of trees may be barriers consisting of two-by four-inch lumber or flag rope and stakes visible to workers and equipment operators, but far enough from the tree to prevent sail compaction and large enough to include the area within the drip line of the tree (drip line refers to the outer edges of tree limbs and branches).

(3) Should a deep filling around a tree be necessary, a dry well, retaining wall or terracing may be required. Procedures for these are available in the site planning and tree protection regulations available at the County Extension Office.

(b) Attachments to tree. No attachments or wires other than those of a protective nature shall be attached to any tree.

(c) Tree survival. Trees must survive on-site in a viable condition. Trees failing to meet this survival requirement must be replaced within 45 days after a written notification is received by the property owner from the town.

(d) Landscaping prohibition. Plants included on the current Florida Noxious Weed list – Rule 5B-57.007 in Florida Administrative Code.

(`75 Code, § 22-21) (Ord. 75-3, passed 5-27-75; Am. Ord. 87-13, passed 9-22-87; Am. Ord. 2017-05, adopted 12-20-17)

PROPOSED

§ 9A-8. TREE PROTECTION.

(a) Protection of trees during land-clearing.

(1) Trees ~~that are~~ retained during ~~land-clearing~~ demolition of an approved development or re-development project can be applied toward total tree requirements for the property. Prior to ~~land-clearing~~ demolition, on-site protection must be initiated by constructing suitable protective barricades around trees to prevent mechanical damage. Barriers should be constructed around individual trees or groups of trees that are susceptible to mechanical damage. Protective barriers shall be placed around all trees to be retained on the site in accordance with the University of Florida's Institute of Food and Agricultural Sciences (*UF/IFAS*) "Tree Preservation During Land Development"~~1~~ guidance to prevent the destruction or damaging of the trees. No disturbance or addition of soil will be made within the umbrella or drip line of retained trees. Any clearing within the umbrella or drip line of such trees shall be done with utmost care and avoid the use of heavy machinery. Prior to any ~~land-clearing~~ demolition activity, a visual inspection of the site will be made by the Building Official ~~and the Landscape Officer~~ before a ~~land-clearing~~ demolition permit is issued. The ~~land-clearing~~ demolition permit must be posted on-site. ~~Only~~ ~~land-clearing~~ Demolition is only permitted ~~within~~ outside the drip line of the tree to be protected.

(2) On-site protection of trees may be barriers consisting of two-by four-inch lumber or flag rope and stakes visible to workers and equipment operators, but far enough from the tree to prevent sail compaction and large enough to include the area within the drip line of the tree ~~(drip line refers to the outer edges of tree limbs and branches).~~

(3) Should a deep filling around a tree be necessary, a dry well, retaining wall or terracing may be required. Procedures for these are available in the site planning and tree protection regulations available at the County Extension Office.

(b) Attachments to tree. No attachments or wires other than those of a protective nature shall be attached to any tree.

(c) Tree survival. Trees must survive on-site in a viable condition. ~~for a minimum of three (3) years~~ A tree inspection will take place one-hundred and eighty (180) days after the final building inspection or certificate of occupancy is issued, or after a permit is grated for any tree replacement otherwise, to ascertain the viable condition of the tree. Tree(s) failing to meet this survival requirement must be replaced within 45 days after a written notification ~~of code violation~~ is ~~received by the property owner from the town~~ issued by the Town. Replacement trees must be tagged or indicated on the as built plans on file with the Town. ~~and reinspected for continued viability annually for three (3) years by Code Enforcement.~~

(d) Landscaping prohibition. Plants included on the current Florida Noxious Weed list – Rule 5B-57.007 in Florida Administrative Code.

(`75 Code, § 22-21) (Ord. 75-3, passed 5-27-75; Am. Ord. 87-13, passed 9-22-87; Am. Ord. 2017-05, adopted 12-20-17)

EXISTING – No Changes

§ 9A-9. TREES ON PUBLIC LANDS.

No tree shall be removed from any public park or public right-of-way except under the provisions of this article.

(`75 Code, § 22-23) (Ord. 75-3, passed 5-27-75; Am. Ord. 2017-05, adopted 12-20-17)

EXISTING

§ 9A-10. EXCEPTIONS.

(a) In the event that any tree shall be determined to pose an unacceptable risk as provided for in § 9A-4 or to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety and requires immediate removal without delay such tree may be removed without first obtaining a written permit as herein required.

(b) During a period of emergency, such as a hurricane, tropical storm, flood, or any other act of God, the requirements of this Article may be waived by the Town Commission.

(c) All licensed plant or tree nurseries shall be exempt from the terms and provisions of this Article only in relation to those trees planted and growing on the premises of the licensee, which are so planted and growing for sale or intended sale to the general public in the ordinary course of the licensee's business.

(d) The types of trees included on the current Florida Noxious Weed List and Florida Exotic Pest Council's List of Invasive Plant Species shall be exempt from the terms and provisions of this article and shall not be used to meet any replacement or planting requirements.

(`75 Code, § 22-22) (Ord. 75-3, passed 5-27-75; Am. Ord. 87-13, passed 9-22-87; Am. Ord. 2017-05, adopted 12-20-17; Am. Ord. 2023-01, adopted 3-15-23)

PROPOSED

§ 9A-10. VARIATIONS TO LANDSCAPE REQUIREMENTS ~~EXCEPTIONS~~.

(a) In the event that any tree shall be determined to pose an unacceptable risk as provided for in § 9A-4 or to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety and requires immediate removal without delay such tree may be removed without first obtaining a written permit as herein required.

(b) During a period of emergency, such as a hurricane, tropical storm, flood, or any other act of God, the requirements of this Article may be waived by the Town Commission.

(c) All licensed plant or tree nurseries shall be exempt from the terms and provisions of this Article only in relation to those trees planted and growing on the premises of the licensee, which are so planted and growing for sale or intended sale to the general public in the ordinary course of the licensee's business.

(d) The types of trees included on the current Florida Noxious Weed List and Florida Exotic Pest Council's List of Invasive Plant Species shall be exempt from the terms and provisions of this article and shall not be used to meet any replacement or planting requirements. ~~A copy of t~~The "Florida Invasive Species Council List" ~~of Invasive Plant Species will be available from the Town~~ is available online.

(`75 Code, § 22-22) (Ord. 75-3, passed 5-27-75; Am. Ord. 87-13, passed 9-22-87; Am. Ord. 2017-05, adopted 12-20-17; Am. Ord. 2023-01, adopted 3-15-23)

EXISTING

§ 9A-11. RESERVED.

§ 9A-12. PENALTY.

The improper removal of each tree shall constitute a separate offense under this chapter. Violation of this chapter and imposition of the penalty shall be determined and imposed by the Code Enforcement Special Magistrate or by a court of proper jurisdiction.

Removal of any mature oak or similar trees without first obtaining a permit from the Town as required in § 9A-4 shall constitute prima facie evidence of a violation which is irreparable or irreversible in nature for the purposes of enhanced fine assessment provided for in § 11-21(b)(1) or as otherwise amended.

(`75 Code, § 22-25) (Ord. 75-3, passed 5-27-75; Am. Ord. 87-13, passed 9-22-87; Am. Ord. 2017-05, adopted 12-20-17; Am. Ord. 2023-01, adopted 3-15-23)

§§ 9A-13.–9A-99. RESERVED.

PROPOSED

§ 9A-11. RESERVED.

~~(a) Mangroves can only be trimmed per state code. 1996 Mangrove Trimming and Preservation Act (sections 403.9321-403.9333, F.S.)~~

§ 9A-12. PENALTY.

The improper removal of each tree shall constitute a separate offense under this chapter. Violation of this chapter and imposition of the penalty shall be determined and imposed by the Code Enforcement Special Magistrate or by a court of proper jurisdiction.

Removal of any mature oak or ~~similar~~ any trees without first obtaining a permit from the Town as required in § 9A-4 shall constitute prima facie evidence of a violation which is irreparable or irreversible in nature for the purposes of enhanced fine assessment provided for in § 11-21(b)(1) or as otherwise amended. Photography (either ground, ~~areal~~ aerial, or geospatial) or other applicable data may be used as ~~prima facia~~ prima facie evidence of the existence of trees on a site prior to any unapproved removal.

(`75 Code, § 22-25) (Ord. 75-3, passed 5-27-75; Am. Ord. 87-13, passed 9-22-87; Am. Ord. 2017-05, adopted 12-20-17; Am. Ord. 2023-01, adopted 3-15-23)

~~§§ 9A-13.–9A-99. RESERVED.~~

§ 9A-13. NUISANCE TREES.

The following *trees* are considered non-native, noxious, invasive species. Property owners are encouraged to remove all such trees from the properties they own within the Town consistent with this chapter Contact the Town's Environmental Advisory Board for free site visits to identify these species.

- *Brazilian pepper (Schinus terebinthifolius)*
- *Melaleuca (Melaleuca quinquenervia)*
- *Australian pine (Causarina equisetifolia)*
- *Carrotwood (Cupaniopsis anacardioides (A. Rich.) Radlk)*
- Schefflera (*Schefflera digitata)*

A tree permit is required by the Town before removing any nuisance tree.

§§ 9A-14.–9A-99. RESERVED.

EXISTING – Chapter 11A

CHAPTER 11A: ENVIRONMENTALLY SENSITIVE LANDS

Section

Article I. Wetlands Protection

11A-1 Purpose and intent

11A-2 General provisions.

11A-3 Permitted uses in wetlands

11A-4 Prohibited uses in wetlands

11A-5 –11A-99 Reserved

ARTICLE I. WETLANDS PROTECTION

EXISTING – No Changes

§ 11A-1. PURPOSE AND INTENT.

The purpose of this chapter is to protect, preserve and enhance the natural functions of wetlands and other environmentally sensitive areas. It is also the intent of this article to apply the following standards for development in and adjacent to wetlands.

(Am. Ord. 2017-05, adopted 12-20-17)

EXISTING

§ 11A-2. GENERAL PROVISIONS.

(a) During the review of a site plan or any other plan for development, the Town Manager shall use the Natural Wetlands Inventory maps, the Brevard County Soil Survey, the Town Comprehensive Plan, aerial photography or other applicable data in order to determine the potential existence of wetlands on or adjacent to the site.

(b) If a review of the above documents indicates that wetlands may exist on or adjacent to the site, an inspection will be performed by the Town Manager.

(c) Based on the assessment of the above site visit, the Town Manager may require the developer to have the site inspected by a representative from the St. Johns River Water Management District for a determination of jurisdictional limits of the site. This may require the involvement of the Army Corps of Engineers, the Department of Environmental Regulation and the Department of Natural Resources.

(d) No building permit will be issued by the Town until either the site plan has been approved or an exemption letter has been issued by the applicable environmental agency.

(e) All proposed development adjacent to canals, the Indian River and east of State Road A1A will automatically be reviewed under the above process.

(Am. Ord. 2017-05, adopted 12-20-17)

PROPOSED

§ 11A-2. GENERAL PROVISIONS.

(a) During the review of a site plan or any other plan for development, the Town Manager shall use the Natural Wetlands Inventory maps, the Brevard County Soil Survey, the Town Comprehensive Plan, aerial photography or other applicable data in order to determine the potential existence of wetlands on or adjacent to the site.

(b) If a review of the above documents indicates that wetlands may exist on or adjacent to the site, the Town ~~m~~Manager or designee shall contact the property owner ~~appropriate authorities listed in section 11A-2(c)~~ to perform verification of wetland determination and ~~provide guidance on~~ and follow wetlands ~~permitting~~ requirements. ~~an inspection will be performed by the Town Manager.~~

(c) Based on the assessment of the above site visit, the ~~Town Manager may require the developer to~~ property owner shall have the site inspected by a representative from the St. Johns River Water Management District for a determination of jurisdictional limits of the site. This may require the involvement of the Army Corps of Engineers, the Department of Environmental Regulation and the Department of Natural Resources.

(d) No building permit will be issued by the Town until either the site plan has been approved or an exemption letter has been issued by the applicable environmental agency.

(e) All proposed development adjacent to canals, the Indian River and east of State Road A1A will automatically be reviewed under the above process.

(Am. Ord. 2017-05, adopted 12-20-17)

EXISTING – No Changes

§ 11A-3. PERMITTED USES IN WETLANDS.

The following uses shall be permitted in wetlands provided that they are approved by the St. Johns River Water Management District or the applicable environmental agency:

(1) Open space;

(2) Fish and wildlife management;

(3) Recreation; or

(4) Any other use deemed appropriate by the St. Johns River Water Management District or the Department of Natural Resources.

(Am. Ord. 2017-05, adopted 12-20-17)

§ 11A-4. PROHIBITED USES IN WETLANDS.

The following uses are specifically prohibited in wetlands:

(1) Residential, commercial, industrial and institutional uses, except as provided for in § 1A-3;

(2) Disposal of solid or liquid wastes, and the application or storage of pesticides and herbicides; and

(3) Any activity which impairs the function of the wetlands.

(Am. Ord. 2017-05, adopted 12-20-17)

§§ 11A-5. – 11A-99. RESERVED.