

BREVARD COUNTY

ARTICLE XIII. LANDSCAPING, TREE PROTECTION, LAND CLEARING AND LAND ALTERATION*

***State law references:** Conservation programs authorized, F.S. § 125.01(1)(k).

DIVISION 1. GENERALLY

Secs. 62-4301--62-4330. Reserved.

DIVISION 2. LAND CLEARING, LANDSCAPING AND TREE PROTECTION*

***Editor's note:** Ord. No. 06-55, §§ 1--17, adopted October 24, 2006, repealed and reenacted division 2, §§ 62-4331--62-4337, to read as herein set out. Formerly, division 2 pertained to landscaping and derived from the Code of 1979, §§ 14-110, 14-110.1--14-110.5; Ord. No. 99-55, §§ 1, 2, adopted October 12, 1999; Ord. No. 02-26, §§ 1--4, adopted May 21, 2002; Ord. No. 02-35, § 1--9, adopted July 23, 2002.

Sec. 62-4331. Purpose and intent.

The board of county commissioners finds that the health, safety and welfare of its citizens can best be protected by land use regulations that support and enforce the following community goals:

- (1) Promote the establishment, management and conservation of native vegetative communities.
 - (2) Promote visual and aesthetic buffers between land uses.
 - (3) Encourage the protection of Heritage or Specimen Trees.
 - (4) Promote water conservation and aquifer recharge.
 - (5) Encourage creative landscape designs.
 - (6) Protect life and property by appropriately planting trees and vegetation.
 - (7) Preserve and enhance property values.
 - (8) Control soil erosion and mitigate heat, air and water pollution.
 - (9) Provide regulations that are user-friendly, flexible and minimize conflicts with other land development regulations while protecting property rights.
- (Ord. No. 06-55, § 3, 10-24-06)

Sec. 62-4332. Definitions.

Active development order means an action by the county approving a site development plan, final development plan or subdivision plat, or the issuance of a permit pursuant to chapter 22.

Adverse site conditions means existing site conditions that adversely affect the implementation of the provisions of this division and that hinder plant viability and growth. Examples include, but are not limited to:

- (1) Existing topographic elevation changes that would result in the likelihood that preserved or planted materials would not survive.
- (2) Existing areas of buried solid waste at a depth that would affect viability of preserved or planted materials.
- (3) Existing electrical lines or utility easements that prevent or restrict the preservation or planting of landscape materials.
- (4) Barrier island planting conditions that cannot support certain hardwood species.
- (5) Existing, expansive water bodies or preserved natural areas where their location might prohibit the installation of required landscaping or buffers or that conflict with preservation.
- (6) Redevelopment sites where existing landscaping does not meet current standards and where existing site conditions, such as but not limited to, impervious surfaces, access locations, or building locations, prevent the site from meeting the current landscaping requirements.
- (7) Sites where type or distribution of existing canopy or other protected trees are such that preservation requirements would prohibit site development or conflict with required development standards, such as stormwater or roadway designs.

Adverse site conditions do not include plan designs that do not avoid preservation areas or trees to the greatest extent feasible.

After-the-fact permit means a permit issued after a violation has occurred for the primary purpose of correcting the violation (if the activity would have been permissible) or for bringing the violator into compliance with existing regulations.

Agricultural activity means any use or action commonly associated with the raising of crops, livestock, silviculture, forestry, groves, pasture, nurseries, or combinations of such activities.

Alternate landscape enhancement plan means a plan that provides property owners with adverse conditions the flexibility to design a landscape plan to manage the specific, adverse site conditions.

Bona fide agricultural use means the commercial agricultural use of a site, parcel, or lot that has been classified as agricultural land pursuant to F.S. § 193.461

Buildable area means the gross area of a site, parcel or lot excluding any area of a site, parcel or lot which is not eligible for the issuance of a building permit by the county. Exclusions are areas where no alteration will occur such as, existing bodies of water, shoreline protection buffers, coastal construction setback areas, wetlands and other similar areas required pursuant to the applicable provisions of articles II, VI, X, XII and XIII. If any of the excluded areas will be credited towards the required landscaping, then the area(s) is considered buildable area for the purposes of landscaping and preservation requirements calculation.

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Canopy means the area consisting of a tree's branches in all directions from its trunk, the outer edge of which is the dripline.

GRAPHIC LINK:[Click here](#)

Canopy coverage means the aerial extent of ground within the drip line of the tree.

Canopy species means a native hardwood or softwood tree, not including palms, that provides sufficient canopy to mitigate the heat island effect.

Clear trunk means a measurement from the soil line to the point in the canopy where the trunk caliper begins to taper abruptly. On many palms, this point will lie at the base of the petiole of the third or fourth youngest but fully expanded leaf.

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Diameter at breast height (dbh) means the diameter of the trunk of a tree, or the sum of the stems of a multi-stemmed tree, measured four and one-half feet above natural or development grade.

Director means the director of the Brevard County Natural Resources Management Office or designee.

Dripline means an imaginary vertical plumb line that extends downward from the tips of the outermost tree branches and intersects the ground.

GRAPHIC LINK:[Click here](#)

Florida friendly landscaping means the utilization of nine principles in landscape design.

These nine principles are:

- (1) Right plant, right place;
- (2) Drought tolerant plantings;
- (3) Fertilize appropriately;
- (4) Mulch;
- (5) Attract wildlife;
- (6) Control yard pests responsibly;
- (7) Recycle;
- (8) Reduce stormwater runoff; and
- (9) Protect the waterfront.

Fruit and nut crop means apples, atemoya, annon, avocado, banana, blackberries, blueberries, chestnut, citrus, figs, grapes/muscadine, jackfruit, mango, mayhaw, nectarines, papaya, passion fruit, peaches, pears, pecans, persimmon, plums, quince, raspberry, star apple, sugar apple, tamarind and any other species as deemed appropriate for the county based on chilling requirements, cold hardiness, warm weather adaptability, and variety adaptation.

Greatest extent feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprints or reducing vehicular use areas.

Hand-clearing means the use of hand-held tools or hand-held machinery including chainsaws, string trimmers, pruning shears, machetes, or scythes. Hand clearing does not include the use of tractors, push or riding mowers, or other similar machinery.

Heat island effect means the increase in temperature in urban areas compared to the surrounding rural lands usually because of reduced vegetative cover or excessive use of impervious surfaces.

Hydrozone means the grouping of plant species with similar watering needs in landscaped areas having appropriate microclimate, soil, and water conditions so that all plants in that area thrive.

Improper pruning means the following:

- (1) Pruning that reduces the height or spread of a tree that has not attained maturity, by altering the dominant stem(s) within the tree crown to such a degree as to remove the natural canopy of the tree;
- (2) Pruning that leaves stubs or results in a flush cut (a cut too close to the main branch or trunk that does not allow for proper healing); or splitting of limb ends;

- (3) Peeling or stripping of bark; or the removal of bark to the extent that, if a line is drawn at any height around the circumference of the tree, over one-third (1/3) of the length of the line falls on portions of the tree where bark no longer remains;
- (4) Using climbing spikes and hooks, except for purposes of total tree removal or as specifically permitted by the Florida Urban Forestry Council or American National Standards Institute (ANSI A-300);
- (5) Destroying the natural habit of growth which causes irreparable damage and permanent disfigurement to a tree such that, even with re-growth, the tree will never regain the original characteristics of its tree species, or is a danger to the public or property; or
- (6) Pruning that results in flat-cutting the top or sides of a tree, to sever the leader or leaders or to prune a tree by stubbing off mature wood, except where removal of a branch is necessary to protect public safety.
- (7) Exception: The removal of diseased or dead portions of a tree or the removal of an interfering, obstructing or weak branch shall not constitute improper tree pruning under this section. Interference with or obstruction of streetlights, stop signs or traffic signals is an example of pruning which, if accomplished by the International Society of Arboriculture's pruning standards, American National Standards Institute (ANSI A-300), the Florida Urban Forestry Council, or the University of Florida Cooperative Extension Service's circular publication No. 853 entitled *Pruning Landscape Trees and Shrubs*, is not a violation of this division.
- (8) All non-native invasive plants as defined in this section are exempt from improper tree pruning standards.

ISA means the International Society of Arboriculture.

Land clearing means the removal or cutting down of vegetation, including trees, root-raking on any site, parcel or lot. This does not include allowable mowing, trimming or pruning so as to maintain vegetation in a healthy, viable condition.

Landscape earth berm means an earthen mound which is not greater than four feet in height and which is sodded and planted with additional vegetation to meet the specifications of the required vegetative buffer classification.

Landscape plan means a plan drawn to an appropriate engineering scale depicting existing and proposed vegetation and prepared by a recognized knowledgeable person.

Landscape means the preservation or planting of vegetation to enhance the natural or built environment pursuant to the provisions of this division.

Mangrove means any specimen of the species *Avicennia germinans* (Black Mangrove), *Laguncularia racemosa* (White Mangrove) or *Rhizophora mangle* (Red Mangrove).

Mowing means to cut down grass or other herbaceous growth that could be removed using light machinery and does not increase soil compaction or result in significant soil movement. In no event shall mowing increase soil compaction or cause reduction in viability of vegetation.

Native species means those species indigenous to the state as determined by the best available scientific and historical documentation and suitable for planting in the county. The Atlas of Florida Native Plants maintained by the Institute for Systemic Botany, University of South Florida shall be used as a reference.

NRMO means the county natural resources management office or its successor agency.

Non-native invasive plant, for the purposes of this chapter, means the "prohibited" species listed in the IFAS (Institute of Food and Agricultural Science-Univ. of FL) plant list as may be amended.

Pervious area means an area that permits water and air to permeate or penetrate to the roots of existing or planted vegetation. Pervious areas do not include materials such as compacted marl or clay, pavement, or concrete. Turf block, pavers, or other similar materials and installation techniques that considerably inhibit permeation and penetration of water and air or necessitate root removal or grade change are not considered pervious.

Protected tree means, with the exception of non-native invasive or undesirable plants, a hardwood tree having dbh of ten inches or greater located on the mainland or Merritt Island or having a dbh of one and one-half inches on the barrier island; or a softwood tree, such as a pine, having a dbh of 14 inches or greater or one and one-half inches on the barrier island; or scrub oaks (*Quercus myrtifolia*, *Q. chapmanii*, *Q. inopina*, *Q. virginiana* var. *maritima*, *Q. geminata*) on the mainland, Merritt Island or barrier island having a dbh of one and one-half inches.

Recognized knowledgeable person means an individual knowledgeable in the identification and evaluation of vegetative resources, such as a forester, biologist, ecologist, horticulturist, state-registered landscape architect, licensed landscape contractor, certified International Society of Arboriculture arborist, certified nurseryman, Florida Nursery, Growers and Landscape Association certified landscape designer or a person having acceptable experience. Acceptable experience shall include a minimum of a four-year degree in horticulture, ecology, forestry, botany, landscape architecture or a minimum of four years of fulltime experience in the identification and evaluation of vegetative resources.

Re-growth control means removal or trimming of individual plants before the plants reach the onset of flowering.

Restoration plan means a plan submitted to NRMO for review that addresses revegetation, replacement, and/or reestablishment of an area that has been illegally cleared.

Roll back provisions (as specified in section 62-4335) apply only to land clearing activities on lands that are not classified as agricultural land as of October 24, 2006, or that are engaged in agricultural pursuits not classified as bona fide as defined in F.S. § 193.461. For these properties, no new development order or rezoning request may be submitted which would enjoy the current cleared state for a minimum of three years from the commencement of agricultural activity. Specifically, if a new development order or rezoning request is submitted within three years of the commencement of agricultural activity, the submittal shall reflect the pre-cleared conditions of the site and apply the current ordinance to the pre-cleared conditions.

Root protection zone means the pervious area beneath a tree centered on the trunk. For preserved trees, this means the area beneath the drip line of the tree. Root protection zones that include existing impervious area(s) not adversely affecting the viability of the tree, may be acceptable. Root protection zones for planted trees shall be determined as follows:

- (1) *Large trees.* The area shall be 1,089 square feet and have a radius no less than 16.5 feet.
- (2) *Medium trees.* The area shall be 462 square feet and have a radius no less than 11 feet.
- (3) *Small trees.* The area shall be 100 square feet and have a radius no less than five feet.
- (4) *Palm trees.* The area shall be 25 square feet and have a radius no less than three feet.

Pursuant to section 62-4345, the director may consider a waiver to the required root protection zone that does not adversely impact the viability of the tree.

Soil amendment means a replacement or improvement to the soil providing for optimum root and plant growth of vegetative materials.

Specimen tree means a tree or group of trees considered an important community asset due to its unique or noteworthy characteristics or values. A tree or a group of trees may be considered a specimen tree based on its size, age, rarity or special historical or ecological significance. Specimen trees include large hardwoods (oaks, maples, etc.) or softwoods (pines, cypress, cedars, etc.) in good condition as determined by a recognized knowledgeable Person, with a dbh of 24 inches or greater and smaller understory trees (stoppers, hollies, etc.) in good condition with a dbh of ten inches or greater.

Spread means the crown diameter measured by taking the average of the widest branch spread and the branch spread perpendicular to it.

Tree is a perennial, woody plant that is generally characterized by having a self-supporting trunk with secondary branches. Trees shall be classified as follows:

- (1) *Large trees.* Average maximum height exceeding 40 feet.
- (2) *Medium trees.* Average maximum height of 25 feet but less than 40 feet.
- (3) *Small trees.* Average maximum height of ten feet but less than 25 feet.

Understory means an underlying layer of low native vegetation usually associated with trees.

Undesirable plant means the "Invasive: Not Recommended" or "Caution" species listed in the IFAS (Institute of Food and Agricultural Science-University of Florida) plant list as may be amended. Plants shall be considered undesirable if not eligible for any use, limited use, or cautioned in any zone--north, central or south.

Vegetation means any plant material, including but not limited to trees, shrubs, vines, herbs and grasses. Vegetation shall be classified as follows:

- (1) *Large trees.* Average maximum height exceeding 40 feet.
- (2) *Medium trees.* Average maximum height of 25 feet but less than 40 feet.
- (3) *Small trees.* Average maximum height of ten feet but less than 25 feet.
- (4) *Shrubs, ground cover and vines.* Average maximum height of less than ten feet, which completely covers the ground at maturity.
- (5) *Palm trees.* All heights.

Vegetative buffer area means an area of undisturbed native vegetation or vegetation established consistent with the surrounding vegetation and soil types. This area shall be located along the perimeter of properties where required by the county.

Vegetative communities means a natural association of vegetative plants, including but not limited to both *trees* and *understory*.

Vehicular use area means any area used for the purpose of driving, maneuvering, parking, storing, loading or unloading or displaying of motor vehicles and boats, excluding rivers, lagoons, streams, public rights-of-way, and permitted driveways and parking areas for single-family residences. Motor vehicles shall include, but are not limited to, automobiles, trucks, vans, campers and motorcycles.

Viable means plant material exhibiting a healthy and vigorous condition having live foliage out to the tips of all branches and stems. Palms shall have no dead spots or yellowing.

Xeriscaping tm or water-wise landscaping means the utilization of seven principles to conserve water in the landscape. These seven principles are:

- (1) Plan and design;

- (2) Soil analysis and amendment;
 - (3) Appropriate plant selection;
 - (4) Reduction of turf areas;
 - (5) Efficient irrigation;
 - (6) Mulching; and
 - (7) Proper maintenance.
- (Ord. No. 06-55, § 4, 10-24-06; Ord. No. 08-01, § 2, 1-8-08)

Sec. 62-4333. Applicability.

The provisions of this division shall apply to the unincorporated areas of the county. The requirements to remove non-native invasive plants at the time of development and control re-growth of such plants in the required area within the site shall apply countywide and prospectively to property on and after May 21, 2002.

(Ord. No. 06-55, § 5, 10-24-06; Ord. No. 08-01, § 3, 1-8-08)

Sec. 62-4334. Exemptions.

The following land uses and activities shall be exempt from the requirements of this division:

(1) Pursuant to the Florida Agricultural Lands and Practices Act (F.S. § 163.3162(4)), any activity of a bona fide agricultural use on land classified as agricultural land pursuant to F.S. § 193.461.

(2) Single family lots that are one and one-fourth acres or less, and have a certificate of occupancy, are exempt from the canopy and preservation requirements of this division as long as minimum landscaping requirements as may be required by this division are met and maintained.

(3) Single family lots that are more than one and one-fourth acres but less than or equal to two and one-half acres, and have a certificate of occupancy, are exempt from the canopy and preservation requirements of this division as long as specimen tree and minimum landscaping requirements as may be required by this division are met and maintained.

(4) The removal of any plant that is a non-native invasive or undesirable plant as specified in section 62-4332 except within shoreline protection buffers as defined by Article X, the Brevard County Coastal Construction Setback Line as defined by Article XII, and wetlands as defined by Article X. Within these areas, non-native invasive or undesirable plant removal is exempt if:

- a. Removal does not eliminate, destroy or damage existing native vegetation, wetland habitats, floodplains, required erosion control or stormwater management systems, or endangered or threatened species or their habitats.
- b. Removal does not undermine shoreline integrity or promote increased shoreline or upland erosion.
- c. Removal does not increase sediment or nutrient loading to the adjacent water bodies.
- d. Removal is achieved by hand-clearing.
- e. Roots shall not be removed below ground. Above ground foliage may be cut and stumps treated appropriately.
- f. Herbicides are used to treat the invasive species as approved for aquatic use.

Other methods may be considered pursuant to small scale land clearing permit as outlined in section 62-4338.

(5) Linear projects and utility corridors developed or maintained by governmental or investor owned regulated utilities that do not require an active development order are exempt if determined by the board of county commissioners to be in the public interest as defined in the county comprehensive plan glossary. Linear projects include federal, state and county roadways, such as arterial and collector roads, sidewalks, trails and paths.

(6) Emergency removal of a dead or seriously damaged tree that poses immediate threat to the health, safety and welfare of the property owners or the general public. Prior to emergency removal, immediate threat should be documented to include but not be limited to:

a. Photographs of the tree(s) including any areas that may be damaged, diseased, or infested;

b. Approximate measurements including tree height, spread, dbh; and

c. Distance to structure(s) or other immovable target(s) if felled.

(7) When the proposed land clearing activity is regulated by another state or federal agency and such regulations may pre-empt local regulations.

(8) The removal of vegetation that has been ordered by the county, pursuant to the provisions of chapter 114, Article II. Prior to issuing the order for removal of vegetation pursuant to the provisions of chapter 114, article II, code enforcement shall consult NRMO. If the removal conflicts with the requirements or intent of this division, the county manager or designee shall negotiate a resolution of the conflict.

(9) The removal of fruit and nut crops unless used to satisfy the landscaping performance standards of this division.

(10) All lands that have an existing, active land clearing permit or approved, active site plan or building permit shall be exempt from requirements of this division that are inconsistent with the previous ordinance.

(Ord. No. 06-55, § 6, 10-24-06; Ord. No. 07-17, § 1, 4-24-07; Ord. No. 08-01, § 4, 1-8-08)

Sec. 62-4335. Non-bona fide agricultural land clearing activities.

(a) To the extent provided by law, any activity of a bona fide agricultural use on land classified as agricultural land pursuant to F.S. § 193.461 is exempt from the requirements of this division (see section 62-4334). However, land clearing activities on lands not classified as agricultural land pursuant to F.S. § 193.461 shall meet the following requirements:

(1) NRMO shall be provided with a completed non-bona fide agricultural land clearing application.

(2) NRMO shall be provided one copy of a completed and signed conservation plan from USDA.

(3) The proposed agricultural activity shall be a use or activity permitted by the existing zoning of the property.

(4) Abutting properties shall be notified by the applicant of the proposed land clearing activity. Written verification of the notification shall be required by NRMO.

(5) Properties where the proposed agricultural activity is not a bona fide agricultural use, shall be subject to the three-year roll-back.

(b) Proposed bona fide agricultural use land clearing activities on lands that are proposed, but not yet classified as agricultural land pursuant to F.S. § 193.461 shall be subject to the three-year roll-back requirements in this division as defined in section 62-4332.

(Ord. No. 06-55, § 7, 10-24-06; Ord. No. 08-01, § 5, 1-8-08)

Sec. 62-4336. Penalties and remedies.

(a) *General penalties.* Unless permitted through an after-the-fact permit, violations of this division shall be punished pursuant to section 62-5 and section 1-7. Violations of this division are considered irreparable and irreversible in nature.

(b) *Special provisions.*

(1) Each quarter acre, or fraction thereof, of land clearing in violation of this division shall constitute a separate violation.

(2) If protected trees are cut down on or removed from the site, each tree shall constitute a separate violation.

(3) The board of county commissioners may establish a schedule of fines to be assessed pursuant to section 2-176 by resolution.

(4) The board of county commissioners may establish by resolution both mitigating and aggravating factors to be considered in assessment of a fine imposed pursuant to section 2-176.

(c) *Additional remedies.* In addition to any fines imposed one or more of the following remedies shall apply:

(1) Properties that are in violation of this division shall not have permits approved nor certificate of occupancy or completion issued pursuant to this division until the violation has been resolved to the satisfaction of the county.

(2) For projects with valid active development order or other land clearing authorization granted under this division. The director may issue a stop-work order immediately on verification of the violation by the county. Work being done contrary to the provisions of this Code or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the director shall not be required to give a written notice prior to stopping the work. A property owner may appeal a stop work order by requesting a special magistrate hearing in writing and filed within 30 calendar days after the decision is rendered by the director. Appeals shall be in a form acceptable to the director.

(3) Restoration, replacement, and/or mitigation shall be required for all violations. The director shall be responsible for reviewing and approving all restoration plans. All restoration plans shall be prepared by a recognized knowledgeable person and shall meet the requirements of an alternative landscape enhancement plan as outlined in subsections 62-4344(2) and (3). Restoration plans shall be submitted with fee as approved by board resolution. Landscape maintenance and/or performance bonds may be required with restoration plans pursuant to subsection 62-4340(17) and 62-4342.

(4) All fines shall be deposited in an arbor trust fund. Fines collected shall be dedicated to fulfill the purposes of this section. Regulations regarding expenditures from the arbor fund shall be provided for by resolution of the board of county commissioners.

(5) Funds collected from fines prior to the enactment of the ordinance from which this section derives that have not been committed shall be allocated to the arbor trust fund.

(Ord. No. 06-55, § 8, 10-24-06; Ord. No. 08-01, § 6, 1-8-08)

Sec. 62-4337. Permit application requirements and review process.

Unless specifically exempted by section 62-4334, a permit shall be required prior to any land clearing activities. NRMO shall provide application forms for those properties not part of an application for an active development order, such as survey, soil, and engineering testing and small scale land clearing permits. If a property is the subject of a building permit, subdivision or site plan permit, the information required in this section shall be provided in the appropriate application. Prior to submittal of the plans required in this section, the applicant is strongly encouraged to meet with the county to discuss the requirements of this division. Except for single-family lots, all landscape and land clearing plans shall be prepared by a recognized knowledgeable person. All plans submitted for landscaping and land clearing permits that are part of a subdivision or site plan application, shall be approved in writing by a professional civil engineer, professional architect or landscape architect, registered in the state and proficient in site design. For platted subdivisions, canopy and tree preservation requirements will be based on the entire buildable area of the subdivision, including lots and demonstrated at the time of plat review. However, canopy shall not be preserved on individual lots unless part of a contiguous, continuous area of canopy and subject to a perpetual conservation easement, declaration of covenants, or other similar legal instrument with sufficient protective language to prohibit activities that are detrimental to the perpetual preservation of the area. The general landscaping requirements shall be demonstrated for common areas of the subdivision (including but not limited to common use, recreational structures, open spaces tracts, and buffers) at the time of plat review. Individual properties within the subdivision shall be reviewed for compliance with general landscaping requirements during the building permit process. Common areas of the subdivision shall be maintained and bonded in accordance with section 62-4342.

(1) Application requirements.

- a. Name, address and phone number. If the applicant is not the property owner of record, written authorization from the property owner is required.
- b. Legal description of the property.
- c. Location map showing the property's relationship to nearby roads and landmarks.
- d. Boundary survey drawn to scale not to exceed one inch to 100 feet, depicting all existing and proposed structures, lot dimensions, and location and amount of clearing proposed.
- e. Survey of all existing protected trees and canopy coverage, and identified to species and dbh. For properties greater than five acres, an alternative methodology of locating individual trees may be used if the methodology is approved by NRMO. The tree survey shall be prepared by a professional land surveyor registered in the state.
- f. Depiction of existing and proposed tree canopy boundaries.
- g. The zoning classification and land uses for the property and abutting properties.
- h. Wetlands and their boundaries that have been delineated pursuant to Chapter 62-340, Florida Administrative Code, as amended.
- i. Proposed use of the property.
- j. Aerial photograph depicting location of proposed activities on the property.
- k. If the application is for approval of a landscape plan as part of a building permit, subdivision or site plan application, the following additional information is required on the plans.
 1. All parking areas.
 2. All other vehicular use areas, access aisles and drives.
 3. Natural and man-made water bodies.

4. On-site sewage disposal systems or central sewer lines.
 5. Location of proposed source of irrigation supply.
 6. Size, number and species of all required landscape materials.
 7. Description and location of all existing trees and native vegetation and vegetative communities to be preserved.
 8. All existing and proposed utility and drainage easements, poles or structures.
 9. All applicable setback and buffers as may be required by articles X and XII of this chapter.
 10. Limits of fill, excavation, and clearing with applicable square footages.
 1. Any other information that is necessary to determine compliance with the county's land development regulations.
- (2) Review process for applications other than building permits:
- a. Upon receipt of the application and fee, NRMO shall review the application within 15 calendar days to determine that all required information has been submitted and is sufficient for review purposes. This review period may be extended by NRMO due to unusual circumstances, including but not limited to, natural disasters resulting in an increased workload. The applicant shall be notified of the deficient items. Upon submittal of the deficient or missing information by the applicant, NRMO shall review the application to determine that the requested information has been provided. If the requested information has not been provided or is insufficient, the applicant shall be notified that no further review will be performed by NRMO until the requested information is provided or sufficient.
 - b. Once the application has been deemed complete or the applicant has notified NRMO in writing that no further information will be provided, NRMO shall review the application within 15 calendar days to determine its compliance with the performance standards contained in this division and shall either approve or deny the permit application. This review period may be extended by NRMO due to unusual circumstances, including but not limited to, natural disasters resulting in an increased work load.
- (3) Building permit applications shall be processed and reviewed through the building code office procedures.

(Ord. No. 06-55, § 9, 10-24-06; Ord. No. 08-01, § 7, 1-8-08)

Sec. 62-4338. Land clearing performance standards.

Unless specifically exempted by section 62-4334, all land clearing activities shall meet the performance standards for the applicable activity listed in this section. Land clearing activities for lands with existing certificates of occupancy or completion shall meet the minimum standards in sections 62-4338 and 62-4339 in perpetuity except as allowed by this division and as approved by NRMO. Any land clearing activities shall be in compliance with chapter 62, articles II, X, XII, and XIII. All land clearing activities shall comply with the following performance standards.

- (1) A land clearing permit shall expire 90 days from the date of issuance for single-family lots and shall expire concurrently with the construction permit for subdivisions and multifamily, commercial, institutional, public and industrial projects. A reasonable extension not to exceed 60 days may be authorized by the director for single-family residential provided appropriate justification warrants, such as unusual weather, seasonal situations or inability to obtain permits from other agencies.

(2) The applicant shall post the land clearing permit on the affected property in such a manner as to be visible from an abutting road. The land clearing permit shall remain posted on the affected property during all applicable land clearing activity. It is the responsibility of the applicant to maintain the land clearing permit in a clearly visible manner at all times.

(3) The trimming, pruning, maintenance or removal of Mangroves shall be consistent with applicable federal or state regulations. Permits from appropriate agencies shall be provided for verification prior to the issuance of a land clearing permit by the county.

(4) Vegetative buffers or other ground covers that retard erosion must be established or installed within seven days after final grade of a subdivision, commercial, industrial or multi-family project has been obtained or within 14 days after the last construction activity has occurred. Erosion and sedimentation control measures shall be in compliance with the best management practices as outlined in the *Florida Stormwater, Erosion, and Sedimentation Control Inspectors Manual*, 2005, Florida Department of Environmental Protection and Florida Department of Transportation, as may be amended and as required by chapter 62-25, Florida Administrative Code, as may be amended.

(5) The buildable area of a single-family residential lot or parcel, including lots or parcels in the AU zoning category, in excess of one-half acre which has been designated on a landscape plan as an area on which no alterations shall occur shall be considered for the purposes of this division to be one-half acre. Where clearing takes place on more than one-half acre, the buildable area shall be considered to be that amount of land that has been or is being cleared or altered.

(6) *Survey permit.* A survey permit is required for clearing for surveys, soils testing and engineering testing. Protected trees may not be cleared for survey or soil and engineering testing purposes.

a. The owner of the property proposed to be cleared, or the authorized agent, shall submit an application for the proposed land clearing activity to the county, on such form as provided by the county. The survey permit shall expire 30 days from the date of issuance. A reasonable extension not to exceed 60 days may be authorized by the director provided appropriate justification warrants, such as unusual weather, seasonal situations or inability to obtain permits from other agencies.

b. The applicant shall post the survey permit on the affected property in such a manner as to be visible from an abutting road. The survey permit shall remain posted on the affected property during all applicable land clearing activity. It is the responsibility of the applicant to maintain the survey permit form in a clearly visible manner at all times.

c. The survey permit shall be limited to the minimum amount required by the activity and shall not exceed ten feet.

(7) *Small scale land clearing permit.* Small scale land clearing permits shall be considered an administrative waiver for land clearing.

a. The owner of the property proposed to be cleared, or the authorized agent, shall submit an application for the proposed land clearing activity to the county, on such form as provided by the county. The small scale land clearing permit shall expire 30 days from the date of issuance. A reasonable extension not to exceed 60 days may be authorized by the director provided appropriate justification warrants, such as unusual weather, seasonal situations or inability to obtain permits from other agencies.

b. The applicant shall post the small scale land clearing permit on the affected property in such a manner as to be visible from an abutting road. The small scale land clearing permit shall remain posted on the affected property during all applicable land clearing

activity. It is the responsibility of the applicant to maintain the small scale land clearing permit in a clearly visible manner at all times.

- c. Only one small scale land clearing permit shall be approved per calendar year for any property, regardless of ownership.
- d. Up to 50 percent of the understory of the area of the site or one acre, whichever is less, can be approved for removal.
- e. Up to ten percent native canopy of the area of the site can be approved for removal.
- f. Specimen trees can not be approved for removal.
- g. Land clearing approval shall be based on the results of a site visit by NRMO and documentation as submitted by the applicant. NRMO shall consider whether the property meets basic landscape, specimen, and tree preservation requirements, reason(s) for removal and certified ISA arborist reports, if available. Verifiable safety and welfare issues, removal other than hand-clearing in environmentally sensitive areas, and habitat/fire management will be considered under small scale land clearing permit. If tree(s) are approved for removal, NRMO shall assign appropriate replacement for removed tree(s) per subsection 62-4340 (18)a. and b.

(8) If the project is not completed prior to the expiration date of the active development order or other land clearing authorization granted under this division, the cleared areas shall be vegetated to the minimum canopy preservation, tree preservation and landscaping standards.

(9) Land clearing shall include any intentional or negligent act or lack of protective measures that affects viability, including, but not limited to:

- a. Improper pruning.
- b. Damage inflicted upon the root system by the application of toxic substances, including herbicides, solvents, oil, gasoline, and diesel fuel.
- c. Damage caused by the operation of machinery, including but not limited to, soil compaction and trunk or root injury.
- d. Damage caused by the storage of materials.
- e. Damages from injury which results or is likely to result in pest infestation.
- f. Change in natural grade to the root system through excavation or filling.

(Ord. No. 06-55, § 10, 10-24-06; Ord. No. 08-01, § 8, 1-8-08)

Sec. 62-4339. Canopy and tree preservation performance standards.

All development shall meet the performance standards listed in this section. Single family lots two and one-half acres or less are exempt from subsections (1)c. through i. below.

Single family lots greater than one and one-fourth acres, shall comply with specimen tree requirements.

(1) The amount of canopy coverage preservation on each property shall be determined using the following standards based on the property's buildable area:

TABLE INSET:

Land Use	Minimum Canopy Preservation of the Buildable Area	Canopy Achieved by Planted Trees of the Buildable Area	Total Canopy Percentage of the Buildable Area
Single-Family Residential	20%	10%	30%
Multi-Family	15%	10%	25%

Residential			
Commercial, Institutional, Public	10%	10%	20%
Industrial	10%	5%	15%

- a. No more than 50 percent of planted trees shall be of any one genus (i.e. Quercus, Pinus, Acer, etc.) to encourage biodiversity and decrease impacts from disease.
- b. Preserved trees shall have protective barriers during construction which encompass the root protection zone. Protective barriers shall be placed no more than one foot inside established root protection zone and shall be subject to inspection prior to any land clearing, alteration, or commencement of construction including grading and filling. For all development, except single family lots not platted as part of a subdivision, it shall be the responsibility of the applicant to schedule an inspection with NRMO. Failure to do so shall constitute a violation of this division and may be subject to stop work order and other penalties and remedies pursuant to section 62-4366.
- c. Credits for canopy preservation greater than the minimum required shall be given in accordance with the provisions in section 62-4343.
- d. Canopy preservation areas in new subdivisions, industrial, institutional, public, or commercial developments shall be within separate tracts, conservation easement, declaration of covenants, or other similar legal instrument with sufficient protective language to prohibit activities that are detrimental to the perpetual preservation of the area.
- e. Activities permitted within canopy preservation areas include landscaping, passive recreation areas, fences, boardwalks, trails, decks and paths as long as these areas are previous and not within the root protection zone of any tree, except as permitted herein, and do not necessitate the removal of vegetation, except as approved by NRMO. Boardwalks and trails may not exceed six feet in width. Decks may not exceed 25 percent of the total root protection zone. Habitat management practices, such as prescribed fire, may occur within the root protection zone. Where the required root protection zone of a tree conflicts with established buffer or vehicular use area performance standards pursuant to section 62-4340 and 62-4341, the performance standards of those sections shall prevail. In no event shall a root protection zone be less than 100 square feet for planted or preserved trees and 25 square feet for planted or preserved palms.
- f. Credit for canopy preservation shall not be given for areas excluded from the buildable area.
- g. Canopy coverage achieved through the use of planted trees shall be credited at 25 percent of the projected canopy at maturity of the species as specified in appendix C. If the actual canopy of the planted tree is larger than 25 percent of the mature canopy size, actual canopy coverage of the particular tree shall be credited.
- h. Existing trees that are successfully relocated elsewhere on the property can be credited towards the canopy coverage requirements but shall not be credited towards preservation requirements.
- i. If existing canopy is less than the listed minimum canopy preservation requirement, the existing canopy percentage shall be used in lieu of the minimum canopy preservation requirement. Total canopy percentage shall be recalculated using the new minimum preserved canopy plus the required planted canopy.

j. Vegetation defined as non-native invasive or undesirable plants pursuant to section 62-4332 shall not be credited towards fulfillment of preservation or planting requirements.

k. Plantings in areas that may be potentially cleared in the future or where planting will impede maintenance operations cannot be credited towards landscaping and preservation and is prohibited.

l. For external expansion projects, existing trees that are determined to be viable by an ISA certified arborist may be credited toward canopy preservation if no additional impervious impact is proposed within the root protection zone of the tree.

(2) All development subject to this division shall preserve protected trees unless specifically exempted herein.

(3) Where on-site canopy and tree preservation performance standards cannot be met due to adverse site conditions, the process and standards in section 62-4344 shall be applied.

(Ord. No. 06-55, § 11, 10-24-06; Ord. No. 08-01, § 9, 1-8-08)

Sec. 62-4340. Landscaping performance standards.

Unless specifically exempted by section 62-4334, all development shall meet the performance standards listed in this section. Single family lots less than two and one-half acres but greater than one and one-fourth acres are exempt from removal and replacement criteria as outlined in subsection 62-4340(18), but must preserve or relocate specimen trees on site to the greatest extent feasible. Single family lots one and one-fourth acres or less are exempt from removal and replacement criteria as outlined in subsection 62-4340(18), including specimen tree criteria.

(1) No certificate of occupancy or certificate of completion shall be issued by the county without full satisfaction of the following landscaping requirements by the applicant in accordance with the approved development order.

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

(3) All development shall meet the following standards through preservation, plantings, or a combination thereof:

TABLE INSET:

<p><i>Minimum trees per acre of buildable area</i> Minimum size specifications shall be as outlined in subsection (8). For buildable area greater than one acre, minimum trees shall be determined by multiplying the minimum trees per acre by the actual buildable area to one decimal place (i.e. five trees/acre × one and one-half acres buildable area = eight trees). Lots containing one-tenth acre or less of buildable area shall provide no less than two trees. Greater than one-tenth acre of buildable area but less than 0.15 acre of buildable area shall provide no less than three trees. Where calculations yield fractions of trees, required trees shall be rounded up to the nearest full tree.</p>	5
<p><i>Minimum inches of dbh per acre of buildable area</i> Minimum inches shall be determined by multiplying the minimum inches of dbh per acre by the actual buildable area to one decimal place (i.e. 60" dbh/acre × 0.75 acre</p>	60

<p>buildable area = 45" dbh required). Where calculations yield fractions of inches, required inches shall be rounded up to the nearest full inch.</p>	
<p><i>Minimum number of shrubs and groundcovers, not including sod, per acre of buildable area.</i></p> <p>Minimum shrubs shall be determined by multiplying the minimum shrubs/groundcover plants required per acre by the actual buildable area to one decimal place (i.e. 125 shrubs/acre × one-half-acre buildable area = 63 shrubs required).</p> <p>Minimum standard is a three-gallon fully rooted 15--18 inches in height shrub or equivalent.</p> <p>Preservation of 16 square feet of native understory is equal to one three gallon fully rooted 15--18 inches in height planted shrub. Where calculations yield fractions of shrubs, required shrubs shall be rounded up to the nearest full shrub.</p>	<p>125</p>

All plantings shall be at least Florida No. 1 grade as defined by the Grades & Standards for Nursery Plants, 1998, Division of Plant Industry, Florida Department Agriculture and Consumer Services, as may be amended. Fruit and nut crops, appropriate to the county, shall be considered for credit towards required plantings provided size specifications, as outlined above, are met.

(4) At least 50 percent of trees required for preservation and planting shall be of native species. At least 50 percent of shrubs and groundcovers shall be native species or recommended by "Waterwise Florida Landscapes," 2004, Florida Water Management Districts, as may be amended. Vegetation defined as non-native invasive or undesirable plants per section 62-4332 shall not be credited towards fulfillment of preservation or planting requirements.

(5) Road frontage and vehicular use areas. This section does not apply to single-family lots, parcels or lots platted as part of an approved subdivision. For residential subdivisions and commercial, public, institutional, or industrial projects, the following specific locational landscape requirements shall be satisfied:

- a. Type B, roadway buffer in accordance with the vegetative buffering requirements of this division.
- b. To mitigate the heat island effect, vehicular use areas shall have appropriate shading.
 - i. For each ten parking spaces, one landscape island and tree shall be provided. For all vehicular use areas, 50 percent of the required trees shall be large species of minimum size. Medium size tree species shall also meet minimum size requirements. Small species trees may be planted but shall not be credited towards the fulfillment of these requirements.
 - ii. Parking spaces immediately abutting a landscape buffer required pursuant to section 62-4341 or vegetated lands of comparable quality subject to a perpetual conservation easement, declaration of covenants, or other similar legal instrument with sufficient protective language to prohibit activities that are detrimental to the perpetual preservation of the area, shall be exempted from this subsection.
 - iii. Where bus, recreational vehicle, boat, motorcycle, golf cart, or any other non-standard spaces are provided, a landscape island twice the size of each non-standard space shall be provided for each ten non-standard spaces. There shall be one planted or preserved tree (minimum three inches dbh) for every 300 square feet contained within the landscape island.

- iv. Vehicular use area landscaping shall be evenly distributed throughout the parking area.
 - v. For all sites, there shall be no more than 15 consecutive spaces permitted without a required landscape island.
 - vi. For all vehicular use areas, islands shall not be less than twelve (12) feet in width for medium size tree species or 15 feet in width for large size tree species and in accordance with subsection (8). Length will be determined by the length of the adjacent parking space.
- c. For commercial and industrial uses, for each 400 square feet of vehicular use area other than parking, there shall be an additional ten square feet of landscaping. The placement of this must be in association with the vehicular use area and shall be integrated within the vehicular use area in a manner compatible with vehicular movement.
- (6) Additions or modifications to existing structures. Any applicant for an active development order for an external expansion, modification or addition to structures existing on the property, where the expansion or addition shall increase the applicable floor area of the structure at least 50 percent for single family residential dwellings and 25 percent for all other development shall comply with all landscaping requirements specified in this division. Where demolition of existing buildings or creation of separate buildings is being proposed or has occurred, these areas shall meet current performance standards. Where vehicular use areas are being expanded or replaced, such areas shall be required to meet the standards in subsection (5) as applicable. Where expansion for all development, excluding single family residential dwellings, is visible from the road from any angle, pavement or concrete cut-outs shall be required to satisfy buffer and parking lot landscape islands to mitigate the urban heat island effect. Buffer requirements shall follow those outlined in section 62-4341 where feasible. Parking lot landscape island requirements shall follow those outlined in subsections (5)c. and d. where feasible. Alternative landscape enhancement plans shall not be required for cut-outs that can not feasibly meet the strict application of the requirements, landscape plans shall be reviewed as standard landscape and land clearing applications.
- (7) Standards for plant materials. All plant materials utilized to satisfy the landscaping requirements in this division shall conform to the standards for Florida No. 1 grade as defined by the Grades & Standards for Nursery Plants, 1998, Division of Plant Industry, Florida Department of Agriculture and Consumer Services, as may be amended.
- (8) Minimum size of newly planted trees. Trees used to fulfill the landscaping requirements in this division, shall meet the following overall height, diameter (dbh) and spread requirements, at the time of planting, by species classification:
- a. For single-family residential uses.
 - i. Trees. Eight feet tall with one inch diameter (dbh) minimum and two-foot spread.
 - ii. Palms. Eight feet of clear trunk.
 - b. For multi-family, commercial, institutional, public, and common areas of residential subdivisions (including but not limited to common use, recreational structures, open spaces tracts, and buffers) and industrial uses:
 - i. Large species. Twelve feet tall with three-inch diameter (dbh) minimum and five-foot spread, and if required to be planted within vehicular use areas at least 300 square foot pervious area.

ii. Medium species. Ten feet tall with one-inch diameter (dbh) minimum and three-foot spread, and if required to be planted within vehicular use areas at least 240 square feet pervious area.

iii. Small species. Eight feet tall with one-inch diameter (dbh) minimum and two-foot spread.

iv. Palms. Ten feet of clear trunk.

(9) Use of palms. Preservation of palms, or the planting of palms, may only be used to satisfy up to 25 percent of the required landscaping unless barrier island conditions prohibit the use of less salt-tolerant plants.

(10) Use of synthetic plants. In no event shall synthetic plants such as manmade, plastic, rubber or silk plants be used for landscaping credits. Removal of existing landscape materials for installation of synthetic plants is prohibited.

(11) Selection of plant materials. The selection of new plant materials or preservation of existing vegetation to satisfy the landscaping or preservation requirements in this division shall be compatible with the proposed use of the site, type of soils, hydroperiods, climate, water quality and other general environmental concerns.

(12) Location of plant materials. The vegetation utilized to satisfy the landscaping requirements in this division shall be located on the site in such a manner that the vegetation shall:

a. Not interfere with drainage systems or utility services or create an unsafe visual clearance or other safety or maintenance hazard. This does not prohibit the appropriate plantings in stormwater retention or detention areas or within utility easements.

b. Be placed in a manner that will not interfere with vehicular or pedestrian traffic and circulation or visibility.

c. Be protected from vehicular encroachment.

(13) Protection of preserved vegetation during construction. All vegetation to be preserved on the site must be protected to ensure survivability during and after construction on the site. An applicant shall provide to NRMO the proposed methods of vegetation protection that will be utilized during and after construction. The methods shall be approved prior to issuance of the land clearing permit. Protective methods and barriers for preserved vegetation shall be deployed prior to the beginning of construction or any alteration of the site. No soil disturbance or compaction, construction materials, traffic, trenching, fill or other land disturbing activities are allowed within the root protection zone of preserved vegetation.

(14) Site preparation. Before landscape installation, the applicant shall provide documentation that the soils are suitable for the prescribed plantings. Any soil amendments shall be performed in accordance with accepted industry standards. For multi-family, institutional, public, residential subdivisions, commercial and industrial development, certification by a registered or certified landscape professional will be required as proof that such soil amendments have been made prior to the issuance of the certificate of occupancy or completion.

(15) Prior to the issuance of the certificate of occupancy or certificate of completion for single-family, subdivision, multifamily, commercial, institutional, public and industrial projects, and at the time of development of government-owned lands, all non-native invasive plants, as defined in this division, shall be removed. For lots greater than five acres, the requirement to remove and control re-growth of non-native invasive plants applies to five contiguous acres to and including the buildable area as defined in section 62-4332. After the issuance of the certificate of occupancy or certificate of completion,

re-growth of non-native invasive plants shall be controlled in perpetuity. The requirements to remove non-native invasive plants at the time of development and control re-growth of such plants in the required area within the site shall apply countywide and prospectively to property after October 24, 2006. Australian pine may be retained on site with a waiver from the director if maintained at its current extent.

(16) For projects using Xeriscaping™ or water-wise landscaping, the following criteria shall be met:

- a. Landscape plans must clearly demonstrate that plant species are grouped by hydrozones (i.e., natural areas, drought tolerant areas, and oasis areas). In addition, the landscape must be installed as detailed in the landscape plan.
- b. Property must be 100 percent free of non-native invasive and undesirable plants.
- c. A layer of at least three inches of non-synthetic inorganic or organic mulches must be present. The use of mulch containing Chromated Copper Arsenate (CCA) is expressly prohibited. NRMO has the authority to inspect and require testing of newly placed mulch material for CCAs and the responsibility to deny final approval of a landscape plan if mulches containing CCAs are used.
- d. No more than 50 percent of the landscape shall be equipped with high volume (micro) irrigation delivery systems.
- e. Soil analysis and letter confirming appropriate amendments must be submitted to NRMO.
- f. Property must be free of nuisance vegetation as defined in chapter 114, article II.
- g. Landscape must be appropriately maintained. Improper pruning shall not constitute appropriate maintenance. In no event shall overgrowth as defined in chapter 114, article II be allowable as Xeriscaping™ or water-wise landscaping.
- h. Consistent with state law, the automatic irrigation system, if any, must be equipped with an automatic rain sensor shut-off device.
- i. If criteria a. through h. are met in their entirety, NRMO may provide special recognition in the form of a listing on the county web site or via signage to be displayed in the landscape and a 50 percent reduction of the required shrubbery square footage per acre of buildable area shall be credited.
- j. Any yard conforming to the Florida Native Back Yard Program or any similar program officially endorsed by the state shall not constitute a nuisance.

(17) Performance bond. When the county manager or designee determines that circumstances indicate that the planting of trees or vegetation prior to the issuance of a certificate of occupancy or certificate of completion would not be prudent, for reasons such as an improper time of year for the planting of trees, the applicant may post a performance bond with the board of county commissioners, in a form acceptable to the county. The performance bond, if posted, shall be in an amount of no less than 125 percent of the estimated cost of all trees and vegetation to be planted, plus labor, pursuant to the requirements of this division. The performance bond shall be received and accepted by the county prior to the issuance of the certificate of occupancy or certificate of completion.

(18) Removal and replacement criteria.

- a. Removal criteria. Specimen Trees shall be preserved or relocated on site to the greatest extent feasible. A protected trees in excess of the minimum number of trees required for preservation, as specified in this division, shall be approved for removal by NRMO if one or more of the following criteria are met:

- i. Where site design modifications, as determined by a pre-clearing inspection, are not feasible to allow the use permitted, as determined by the specific zoning of the subject property. Streets, rights-of-way, easements, utilities, lake perimeters, septic tanks, and lot lines shall be shifted whenever possible to preserve trees.
 - ii. Where the trunk of a protected tree is located within the footprint of the proposed structure or is closer than ten feet, or 25 feet for any protected pine, from the foundation of the proposed structure, and it is not feasible to relocate the structure.
 - iii. Where the location of the tree prevents any access to the property from a publicly dedicated and maintained roadway, or where the tree constitutes a hazard to pedestrian or vehicular traffic that cannot be mitigated without removing the tree.
 - iv. Where the location of the tree prevents the construction of utility lines, drainage facilities, on-site sewage disposal systems, roadways or required vehicular use areas which cannot be practically relocated or rerouted or where the trees cannot be utilized as part of these systems.
 - v. Where the tree is weakened by age, storm, fire or other injury so as to pose a danger to persons, property, site improvements or other trees.
 - vi. Where trees reduce visibility of a nonresidential development more than 50 percent of the linear footage of the lot along the roadway to which the project has primary frontage.
- b. Replacement criteria. Where the removal of a protected tree meets any one or more of the criteria identified in subsections a.i., a.ii., or a.vi., the applicant may choose one of the following options to be included as part of the required landscape requirements:
- i. The applicant shall provide one or more native canopy species trees to replace the removed protected tree where the total dbh of the replacements is equal to 150 percent of the total dbh of the tree or trees removed.
 - ii. Specimen trees that can not be preserved or relocated on site shall be subject to replacement with new plantings of native canopy species trees, as approved by NRMO, at a rate of 200 percent of the cumulative diameter at breast height (dbh) of the trees removed, using a minimum four-inch dbh plantings.
 - iii. The applicant may relocate or transplant the protected tree elsewhere on the same lot or parcel of land if there is a source of water and adequate irrigation system on the site to ensure viability of the transplanted tree.
- (Ord. No. 06-55, § 12, 10-24-06; Ord. No. 08-01, § 10, 1-8-08)

Sec. 62-4341. Landscape buffers.

The purpose of the vegetative buffering requirements set out in this section is to provide visual and physical screening and buffering between potentially incompatible uses and to reduce the effects of glare, noise and incompatible activities, to include commercial, institutional, public and industrial uses when they abut existing residential uses.

(1) Type A, compatibility buffer. Where a fence or wall is required by article VI, the type A buffer, as defined in this subsection, may be utilized in lieu of the required fence or wall. This buffer classification shall be used to separate commercial, institutional, public or industrial uses from residential uses. The type A buffer shall be completely opaque from the ground up to a height of at least six feet, except where located within 25 feet of a road, where it shall be four feet in height. In conjunction with this buffer, a minimum 20-foot vegetated area shall be provided. There shall be no parking or structures other than permitted signage located within this vegetated area.

- a. The opaque buffer may utilize a masonry wall, wood fence, landscaped earth berm, planted or existing vegetation or any combination thereof that maintains a completely opaque buffer.
 - b. Location of fences and walls. Where a fence or wall is used to fulfill the screening requirements within a vegetative buffer, it shall be located one foot inside of the property line that abuts the residential zoning. When an impediment such as a drainage easement, ditch or water body runs along a property line, an administrative waiver may be granted by the director to allow the masonry wall or fence to be placed along the edge of the ditch or water body instead of on the property line. Where there are existing trees within the buffer area, the fence or wall shall be located so as to preserve the trees.
- (2) Type B, roadway buffer. This buffer classification shall be required for all development excluding individual single-family homes not within platted subdivisions. This buffer shall be landscaped, be located adjacent to any public road and have a minimum width of 15 feet. There shall be no parking or structures other than permitted signage located within this vegetated area.
- (3) Planting requirements. The planting requirements for the vegetative buffer areas shall be consistent with appendix B as amended, and shall be credited toward the overall landscaping requirements. Minimum buffering and landscaping of vehicular use areas shall be met regardless of other requirements.
- (Ord. No. 06-55, § 13, 10-24-06; Ord. No. 08-01, § 11, 1-8-08)

Sec. 62-4342. Maintenance and inspections.

- (a) Except as allowed by subsection 62-4340(18), the health and viability of all required landscape materials on the site, whether preserved or newly planted, must be maintained through proper care or replacement in perpetuity after issuance of the certificate of occupancy, certificate of completion, or restoration as may be required to resolve a code violation.
- (b) For multi-family, residential subdivisions, commercial, institutional, public and industrial projects, the county may perform a courtesy inspection of the landscaping within 90 days after issuance of the certificate of occupancy or certificate of completion. If the vegetation appears to be under stress, the staff shall notify the property owner. A second inspection may be performed ten to 12 months after the issuance of the certificate of occupancy or certificate of completion. If the vegetation is not viable at that inspection, notice shall be given to the property owner and the property owner shall be responsible for replacing the vegetation with equivalent landscape material. Failure to have viable landscape materials or preserved areas consistent with the approved landscape plan after of the issuance of the certificate of occupancy or certificate of completion shall constitute a violation as described under section 62-4336. Failure to remove non-native invasive plants and control re-growth prior to the final landscaping inspection is a violation of this division and shall be enforced pursuant to section 62-4336. A maintenance bond, cash bond or letter of credit shall be collected prior to the issuance of certificate of occupancy or certificate of completion for multi-family, commercial, institutional, and industrial projects equal to 25 percent of the cost of vegetation other than sod. This maintenance bond, cash bond or letter of credit shall be forfeited if vegetation consistent with the approved landscape plan is not maintained in a viable state or if re-growth of non-native invasive plants is not controlled for the 12-month duration of the bond. The county reserves the right to enter property to make the necessary inspections.

(c) An onsite inspection shall be conducted prior to the approval of the land clearing permit.

(Ord. No. 06-55, § 14, 10-24-06; Ord. No. 08-01, § 12, 1-8-08)

Sec. 62-4343. Incentives for increased canopy and tree preservation and increased landscaping.

To encourage the preservation of canopy, protected trees and specimen trees, the following incentives are provided:

(1) For preservation of canopy greater than the minimum total canopy required for the land use and its associated root protection zone, a density bonus equal to 100 percent of the excess canopy preservation area shall be granted not to exceed 150 percent of the density assigned to the property. If other density transfers or bonuses are used in combination with this incentive, the overall density of the property shall not exceed 150 percent of that permitted by the zoning district.

(2) Preservation of vegetation of special concern. In addition to credit for additional preservation of trees or canopy, landscaping credit may be accumulated for the preservation on the site of any of the following vegetation of special concern that is in a healthy condition:

a. For each 100 square feet of land containing no dimension less than ten feet, that is predominately vegetated by rare, endangered or threatened plant species as listed in volume 5, *Plants, Rare and Endangered Biota of Florida*, University Presses of Florida, Gainesville, Florida, and as listed in F.S. § 581.185, the property owner shall receive 200 square feet of landscape credit for that class of vegetation. No species of Mangroves shall be eligible for points under this subsection.

b. For each 100 square feet of vegetation classified as hardwood hammock, barrier island scrub, cypress domes or sand pine scrub associations preserved on the site, total tree planting requirements shall be reduced by five percent when the vegetative community is preserved intact; and the vegetative community preserved comprises an area of no less than 100 square feet with no dimension less than ten feet.

c. For each 100 square feet of vegetation classified as barrier island association preserved on the site, landward of the county coastal setback line, total landscaping requirements shall be reduced by five percent when the vegetative community is preserved intact and the vegetative community preserved comprises an area of no less than 100 square feet with no dimension less than ten feet.

d. For each 100 square feet of native vegetation preserved adjacent to a scenic vista or public roadway classified as arterial or collector, type B roadway buffer requirements may be waived for the equivalent area if the native vegetative community is preserved and maintained intact and the vegetative community preserved comprises an area of no less than 100 square feet with no dimension less than ten feet.

e. If Mangroves do not presently exist on shorelines contiguous to estuarine waters and are planted on four-foot centers, the requirements for shrubs may be reduced accordingly. The minimum size of newly planted Mangroves shall be fully rooted three-gallon container plants with a minimum height of 15--18 inches.

f. For preservation of each specimen tree, the corresponding tree planting requirements shall be reduced by the dbh of the specimen tree and number of trees shall be reduced by dividing the dbh of the specimen tree by four inches.

(Ord. No. 06-55, § 15, 10-24-06; Ord. No. 08-01, § 13, 1-8-08)

Sec. 62-4344. Alternative landscape enhancement plans, mitigation, and compensation. In cases of adverse site conditions or hardship, alternative landscape enhancement plans may be considered. Such plans shall be signed and sealed by a landscape architect registered in the state except for individual single-family homes not part of a platted subdivision. Alternative landscape enhancement plans may consist solely or a combination of on-site preservation, landscaping enhancement, on-site mitigation, off-site mitigation and compensation. In all cases, the standards for alternative landscape enhancement plans shall be, in order of priority, on-site preservation of existing native vegetation, on-site landscape enhancement, on-site mitigation, off-site mitigation, and compensation.

(1) Alternative landscape enhancement plans are intended to provide increased flexibility for sites demonstrating existing adverse site conditions. Alternative landscape enhancement plans shall meet the following performance standards on-site:

- a. Results in landscaping that exceed specific goals and intent of landscape regulations.
- b. Provides sufficient tree plantings to achieve a tree canopy equal to five percent greater than the minimum required at the time of development.
- c. Provides heat island mitigation and landscape buffers, as required by the landscaping code.
- d. Replaces protected trees with new plantings of native canopy species trees at a rate of 150 percent of the cumulative diameter at breast height (dbh) of the trees removed, using minimum four-inch dbh plantings.
- e. Specimen trees shall be preserved or relocated on site to the greatest extent feasible. Specimen trees that can not be preserved or relocated on site shall be subject to replacement with new plantings of native canopy species trees at a rate of 200 percent of the cumulative diameter at breast height (dbh) of the trees removed, using a minimum four-inch dbh plantings.
- f. Parking shall not exceed the minimum required for the proposed use(s).
- g. When the applicant provides clear and convincing evidence that demonstrates the canopy preservation and tree preservation performance standards listed within this division cannot be met on the subject property, the applicant may submit an alternative plan that includes mitigation for consideration.

(2) Mitigation. When the applicant has provided clear and convincing evidence that demonstrates the canopy preservation and tree preservation performance standards cannot be met on the subject property, the applicant may submit an alternative landscape enhancement plan that includes mitigation. Mitigation can consist of a combination of restoration and replacement of trees and canopy through tree plantings, relocation of trees to another site, (with written authorization from the receiving property owner), off-site canopy preservation or monetary compensation. For all mitigation, except for compensation, the applicant is responsible for maintenance in perpetuity and bonding as set forth in section 62-4342. The types of mitigation and applicable standards are as follows:

- a. Restoration and replacement.
 - i. For every protected tree that cannot be preserved or re-located on-site, the size of the replacement tree shall be at least four inches dbh and the number of planted trees required shall be determined by a ratio of 150 percent of the protected tree's dbh. Replacement trees shall be native canopy species trees, as approved by NRMCO.

ii. Specimen trees that can not be preserved or relocated on site shall be subject to replacement with new plantings of native canopy species trees, as approved by NRMO, at a rate of 200 percent of the cumulative diameter at breast height (dbh) of the trees removed, using a minimum four-inch dbh plantings.

iii. All restoration or replacement areas shall be permanently protected in a conservation easement, declaration of covenants, or other similar legal instrument with sufficient protective language to prohibit activities that are detrimental to the perpetual preservation of the area recorded in the public records of the county.

b. Relocation.

i. For every protected tree that cannot be preserved or reasonably relocated on-site, the protected tree may be relocated to another site acceptable to the county. Reasonable relocation includes techniques such as root pruning, tree spades and other similar techniques. Relocation techniques shall be reviewed and approved by the county prior to being used for any relocation of trees both on and off the property.

ii. All relocation areas shall be permanently protected in a conservation easement, declaration of covenants, or other similar legal instrument with sufficient protective language to prohibit activities that are detrimental to the perpetual preservation of the area recorded in the public records of the county.

c. Off-site preservation. If on-site canopy and tree preservation standards cannot be met and restoration and relocation are not options, then off-site preservation may be considered. Off-site preservation will be based on square footage of canopy at a ratio of two to one of similar quality and diversity. Equal to or greater quality and diversity shall be determined by a certified arborist.

d. When the applicant has provided clear and convincing evidence that demonstrates the canopy and tree preservation performance standards and alternative landscape enhancement plan objectives listed within this division cannot be met on the subject property or through mitigation, the applicant may submit a compensation proposal for consideration.

(3) Compensation. Compensation for the loss of canopy and protected trees shall be determined as follows:

a. Compensation (C) for trees of known Number REMoved (NREM) and known Total DBH (TDBH) shall be calculated using the costs established by resolution.

b. Compensation for trees of known Number REMoved (NREM) but unknown total diameter shall be calculated using the costs established by resolution.

c. Compensation for trees for which neither the total diameter nor the number can be determined shall be made under the assumption that the site is 100 percent forested. Compensation shall be calculated using the costs established by resolution, or the valuation provided by a tree appraisal conducted by an arborist certified by the International Society of Arboriculture or landscape architect registered in the state and where the appraisal was conducted in accordance with the methodology contained in the Guide for Plant Appraisal, 9th edition, as amended and published by the International Society of Arboriculture.

d. Compensation for specimen trees illegally removed or destroyed shall be three times the calculated cost of C.

e. All compensation funds shall be deposited in the trust fund established by section 62-4336.

(Ord. No. 06-55, § 16, 10-24-06; Ord. No. 08-01, § 14, 1-8-08)

Editor's note: Ord. No. 08-01, § 14, adopted January 8, 2008, changed the title of § 62-4344 from "Alternative landscape enhancement plans, mitigation, compensation and waivers" to "Alternative landscape enhancement plans, mitigation, and compensation."

Sec. 62-4345. Waivers.

(a) An administrative waiver to the requirements of this Code may be granted when the director has determined that:

- (1) The site will not support the required trees and vegetative communities to be preserved as well as the required landscaping. This situation may occur when preservation far exceeds what is required by Code, thereby limiting planting area.
- (2) Up to 34 percent reduction in required type A and/or type B buffer depth is warranted due to adverse site conditions. The reduced buffer shall meet vegetative and opacity requirements pursuant to section 62-4341 and provide visual and physical screening and buffering between potentially incompatible uses and reduce the effects of glare, noise and incompatible activities, to include commercial, institutional, public, and industrial uses when they abut existing residential uses.
- (3) Type A and/or type B buffers can not be installed due to safety concerns verified in writing by a law enforcement agency
- (4) A specimen tree meeting size criteria does not meet the definition because it is not unique based on its age, rarity or special historical or ecological significance considering the immediate site or surrounding area.
- (5) Pre-development impervious coverage of a root protection zone has not historically adversely impacted the viability of the tree, the tree may still be counted toward canopy, tree preservation and landscaping performance standards pursuant to sections 62-4339 and 62-4340.

It is the intent of this division that preservation of native and Florida-friendly vegetation shall take precedence over additional planting of vegetation.

(b) When the county manager or designee determines that a minor administrative adjustment to the applicable parking standards in nonresidential zoning classifications would allow for the preservation or additional planting of native or Florida-friendly landscaping on the site, upon a written request by the applicant, together with a vegetation survey, submitted with the required landscaping plan, the county manager or designee may administratively waive up to 30 percent of the applicable parking standards for the property. If the parking requirements of any other section of this Code conflict with the landscaping requirements of this division, the conflict may be resolved by the county manager or designee.

(Ord. No. 08-01, § 15, 1-8-08)

Editor's note: Ord. No. 08-01, § 15, adopted January 8, 2008, amended § 62-4345 in its entirety to read as herein set out. Formerly, § 62-4345 pertained to appeals, and derived from Ord. No. 06-55, § 17, adopted October 24, 2006. Similar provisions can now be found in section 62-4346.

Sec. 62-4346. Appeals.

Any appeals relating to any administrative decision or determination concerning implementation or application of the provisions of this division shall be filed in accordance with the provisions set forth in section 62-507.

(Ord. No. 08-01, § 16, 1-8-08)