

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, AMENDING CHAPTERS 138 AND 166 OF THE PINELLAS COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AND AMENDING THE REGULATION OF TREES AND LANDSCAPING; AMENDING PROVISIONS RELATED TO NUISANCE SPECIES AND INVASIVE SPECIES; AMENDING PLANT MATERIAL SPECIFICATIONS; AMENDING NON-RESIDENTIAL AND MULTI-FAMILY LANDSCAPING STANDARDS; AMENDING THE APPROVED SPECIES LIST; PROVIDING FOR SEVERABILITY; PROVIDING AND AMENDING DEFINITIONS; PROVIDING FOR INCLUSION IN THE LAND DEVELOPMENT CODE; PROVIDING FOR SCRIVENER'S ERRORS; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS** tree removal frequently occurs independent of development activities; and

**WHEREAS**, protecting and enhancing the urban and natural tree canopy reduces stormwater runoff, improves air quality, decreases urban heat island effects, and provides shade and habitat; and

**WHEREAS**, the Pinellas County Comprehensive Plan instructs staff to encourage and incentivize the use of Florida Friendly Landscaping practices when evaluating development and redevelopment proposals; and

**WHEREAS**, the Local Planning Agency held a duly noticed and advertised public hearing on November 12, 2025 as to the proposed Ordinance and recommends that the Board of County Commissioners approve the proposed amendments contained therein; and

**WHEREAS**, the Board of County Commissioners finds that proposed amendments to the Land Development Code as set forth herein are consistent with the Comprehensive Plan and the review requirements set forth in the Land Development Code.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pinellas County, Florida in regular meeting duly assembled this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, that:

SECTION 1. RECITALS. The recitals above are incorporated herein.

SECTION 2. Chapter 138 and Chapter 166 of the Pinellas County Code are hereby amended as set forth below.

### *DIVISION 3. LANDSCAPING*

#### **Sec. 138-3650. Purpose and intent.**

The purpose of this division is to ~~preserve the existing natural environment and~~ provide landscape improvements on private properties ~~and public rights of way~~ in order to promote a positive urban image, enhance property values, strengthen the fabric of the surrounding community, promote context-sensitive growth that recognizes land use and transportation goals, establish a harmonious relationship between the natural and built environment, and enhance the overall aesthetic quality of development in the county. The landscape regulations are intended to achieve the following objectives:

- Conserve water by preserving existing established and native landscaping, encouraging the use of "Florida-friendly" and native trees, palms, shrubs, grasses, and ground covers, and establishing standards for the installation of landscape material ~~and irrigation systems~~.
- Reduce the visual impact of large building masses, paved surfaces, and vehicular use areas.
- Improve the appearance of unincorporated Pinellas County by creating quality urban environments that are sustainable over time.
- Improve environmental quality through the use of low impact development (LID) techniques that will improve water quality, facilitate aquifer recharge and reduce stormwater runoff, and reduce "heat island" effects.
- Increase land values by providing landscaping that will function as a capital asset.
- Provide for safer and more pedestrian-friendly walking environments by forming and framing public spaces with trees which provide distinct edges to sidewalks so that motorists better distinguish between their environment and one shared with people.
- Provide habitats for urban wildlife.
- Protect native plant species and habitats by eliminating invasive exotic species that threaten the ecosystem.

#### **Sec. 138-3651. Application of landscape regulations and required maintenance.**

(a) *New Development/Redevelopment*. Any development on a vacant site, complete redevelopment ~~on or of~~ developed property, ~~or redevelopment of a portion of developed property~~, shall be required to provide landscaping in accordance with this division. Infill or highly constrained sites may seek an administrative adjustment, waiver, or variance to modify landscape requirements. *The following exceptions apply:*

- (1) *When the development/redevelopment is located within a special district and is subject to the landscaping standards included therein;*
- (2) *When the development/redevelopment is subject to specific use standards of Chapter 138, Article IX and is subject to the landscaping standards included therein which are more stringent;*

(3) When the development/redevelopment meets the criteria for affordable housing and qualifies for development standard flexibility as part of the development review process as provided in Sec. 138-3211(c)(2)(a);

(b) *Existing Development.* Existing developed sites shall be brought into compliance with this division under one or more of the conditions:

- (1) The property owner shall demonstrate that the site contains the landscaping required by a previously approved site plan. Missing landscaping shall be replaced with the same or similar species as required by the previous site plan. An exception applies where it can be demonstrated that replacement of required landscaping is not feasible due to existing landscaping or when replacement landscaping would not provide any functional value;
- (2) When improvements are proposed which require a building permit, zoning clearance, or other development authorization, limited landscaping shall be provided based on the proportional value of the proposed building improvements consistent with Sec. 138-220.

~~All new landscaping, tree protection actions, conservation, and plant/tree maintenance shall be provided in accordance to this division. The following exceptions apply:~~

- ~~(1) When the use/development is located within a special district and separate landscaping and/or conservation standards are established therein, the use/development shall comply with the requirements specified in that district; AND/OR~~
- ~~(2) When the use/development is subject to any specific use standard of chapter 138, article IX, and additional landscaping and conservation requirements are established, the stricter standard shall apply; AND/OR~~
- ~~(3) When the property is in or is experiencing a state of emergency such as flooding, fire, tornado, and/or hurricanes AND the plant material creates a safety hazard; AND/OR~~
- ~~(4) When the use/development meets the criteria for affordable housing and is subject to the provisions of section 138-3211(c)(2)e.~~

(b) *Change in use with no site improvements.* Sites that experience a change in land use (example retail to restaurant) shall provide landscaping consistent with the following:

- ~~(1) When the change of use includes a building permit, the site shall be enhanced to include landscaping improvements consistent with the non-conforming provisions of chapter 138, article II, division 6. This standard shall require limited landscaping improvements based on a proportional value of the building improvement; AND~~
- ~~(2) The site shall be required to demonstrate the property contains the landscaping material consistent with any previously approved development plans.~~
  - ~~a. If the existing site has less landscaping material than what was originally approved, the plant material shall be replaced with the same or similar species prior to certificate of occupancy.~~
  - ~~b. If there is no previously approved site plan OR the county is unable to produce/locate the previously approved site plan, this subsection does not apply.~~

(e) *Existing development.* Existing development not meeting the requirements contained in this section shall be brought into compliance under one of the following conditions:

- (1) Any portions of the site that are developed/redeveloped shall be constructed to comply with the provision of this division;
- (2) Other portions of the site shall be enhanced to include proportional landscaping improvements consistent with the non-conforming provisions of chapter 138, article II, division 6 based on building improvements. This standard shall require limited landscaping improvements based on a proportional value of the building improvement;
- (3) The site shall be required to demonstrate the property contains the landscaping material consistent with any previously approved development plans.
  - a. If the existing site has less landscaping material than what was originally approved, the plant material shall be replaced with the same or similar species prior to certificate of occupancy.
  - b. If there is no previously approved site plan OR the county is unable to produce/locate the previously approved site plan, this subsection does not apply.

(ce) *Landscaping installation.* Whenever landscape materials are required by this division, they shall be installed and maintained in accordance with the standards and requirements of this division. All landscaping installed or preserved to meet the requirements of this division shall be maintained in a healthy condition. Installed or preserved landscaping which dies after the development has been completed shall be replaced to meet the requirements of this division within 30 days.

(df) *Property II Landscaping, tree and buffer maintenance.* All landscaping, trees, and buffers shall be maintained in good condition by the owner, tenant or their agent, so as to present a healthy, neat and orderly appearance.

~~No mangrove plant or tree shall be removed unless permitted by the county. All trimming and maintenance of mangroves is subject to the requirements of F.S. § 403.9321 through 403.9333.~~

(eg) *Variances.* The ~~property owner or applicant use/development~~ may seek flexibility from these landscaping, ~~tree protection, and wetland buffer~~ standards as a variance or administrative adjustment based on the limits and standards of ~~e~~Chapter 138, ~~a~~Article II, ~~d~~Division 7.

## Sec. 138-3652. Reserved.

## Sec. 138-3653. Undesirable trees/plants Nuisance and Invasive Species.

Due to their ~~characteristics ability to create monocultures, replace native species, or low wind tolerance during hurricanes, certain species of plants are prohibited from being planted and their removal is encouraged as exotic, invasive, and/or hazardous species, certain tree/plant species are classified as undesirable.~~

- (a) Undesirable tree/plant Nuisance and invasive species list.

(1) The county's ~~undesirable tree/plant~~nuisance and invasive species ~~table~~ lists contains species considered undesirable, non-native, problematic, or invasive. The table can be viewed on the Pinellas County Building and Development Review Services webpage.

- These species may be removed from any site subject to a no-fee permit;
- These species shall not be counted towards ~~meeting~~ the minimum landscaping requirements for a site.

(2) ~~Undesirable trees/plants~~Nuisance and invasive species are further classified as Tier 1 and Tier 2 species.

- Tier 1 ~~undesirable trees/plants~~species shall not be planted in Pinellas County, AND existing species shall be removed as part of site development, building renovation and/or new ~~house~~ construction to the greatest extent practicable as determined by county staff. Properties with existing single-family detached, single-family attached, three-family, and/or two-family dwellings in residential districts RA—R-5 are exempt from this requirement.
- Tier 2 ~~undesirable trees/plants~~species may be planted in Pinellas County AND existing species may remain but will not be credited towards landscaping requirements.

**Sec. 138-3654. Reserved.**

**See. 138-3654. Tree protection and relocation.**

~~Existing Florida native plant material shall be given priority for preservation in site development/redevelopment. Furthermore, existing healthy trees and native palms should be preserved and integrated into site landscape plans. There are no preservation goals for undesirable tree species.~~

**(a) Tree protection requirements.**

~~Protected trees. Existing high rated, non-invasive trees and native palms shall be protected. Any impacts to protected trees shall include mitigating actions such as replacement or relocation. Protected trees shall include:~~

- ~~Any existing healthy tree with a diameter breast height (DBH) of four inches or larger, measured at a height of four and one half feet above the ground shall be considered a protected tree;~~
- ~~All healthy Sabal/Cabbage Palms six feet in height or larger; and~~
- ~~All buttonwood, mangroves.~~

**(2) Tree rating category:** As part of the permitting process, (i) existing trees with a DBH of four inches or greater AND (ii) existing Sabal/Cabbage Palms six feet high or greater shall be rated on a scale of zero through six based on Table 138-3654.a—Tree Rating System. The tree rating shall be assigned based on the tree/palm condition description listed in the table.

- ~~The tree rating assessment shall occur by the applicable county staff; OR~~

b. The applicant may request that a certified arborist at the applicant's expense, conduct a tree rating assessment. In this option, the county administrator or designee will review the arborist's assessment and make the final determination.

(3) *Permitted action and requirement:* Existing trees and palms shall be preserved replaced, relocated, and/or removed pursuant the permitted actions and requirements for each tree rating category as listed in Table 138-3654.a—Tree Rating System.

**Table 138-3654.a—Tree Rating System**

Tree Rating Category	Tree/Palm Condition Description	Permitted Action(s) and Requirement(s).
0	Undesirable tree species. Invasive or exotic tree species regardless of health and size.	<ul style="list-style-type: none"> <li>■ See section 138-3353.</li> <li>■ Minimum lot requirement still applies.</li> <li>■ No tree credit is allowed.</li> </ul>
1	Dead/dying; (contains at least 75% deadwood)	<ul style="list-style-type: none"> <li>■ The tree may be removed subject to permit approval.</li> <li>■ The tree shall be removed if part of site development/redevelopment.</li> <li>■ Minimum lot requirement still applies.</li> <li>■ No tree credit is allowed.</li> </ul>
2	The tree shows staghorning (dieback), mechanical, insect and/or disease damage, and may require major repair, pruning and fertilization.; overall form and branching has been compromised; central leader is not present; severe co-dominance is evident; extreme tip dieback evident; More than 40% deadwood of the total crown area.	<ul style="list-style-type: none"> <li>■ The tree may be removed subject to permit approval.</li> <li>■ Minimum lot requirement still applies.</li> <li>■ No tree credit is allowed.</li> </ul>
3	Minor insect, disease and/or physiological problems such as decay, saprophytic decays and mistletoe but is treatable; overall form is intact and in good shape, central leader is present; minor tip die-back evident; There may be a need for some corrective pruning.	<ul style="list-style-type: none"> <li>■ The tree may be removed subject to permit approval.</li> <li>■ Tree replacement/mitigation shall occur on an inch-for-inch basis. However, trees located within the planned building footprint are not protected and considered exempt for any replacement/mitigation requirements.</li> </ul>

	<del>Less than 30% deadwood of the total crown area.</del>	<ul style="list-style-type: none"> <li>■ A tree credit is allowed on an inch for inch basis to be used towards required landscaping.</li> </ul>
4	<del>Little or no damage, infestation or disease is evident; Problems are easily treatable; overall form is very good to excellent. Less than 10% dead wood of the total crown area.</del>	<ul style="list-style-type: none"> <li>■ The tree may be removed if a part of a development/redevelopment plan.</li> <li>■ Tree replacement/mitigation shall occur on an inch for inch basis. However, trees located within the planned building footprint are not protected and considered exempt for any replacement/mitigation requirements.</li> <li>■ A tree credit is allowed on an inch for inch basis to be used towards required landscaping.</li> </ul>
5	<del>No damage, infestation or disease is evident; overall form is excellent. Less than 10% dead wood of the total crown area.</del>	<ul style="list-style-type: none"> <li>■ The tree may be removed if part of a development/redevelopment plan AND.</li> <li>■ The tree may be removed if it is demonstrated that the site is not reasonably developable without removing the tree.</li> <li>■ Tree replacement/mitigation shall occur on an inch for inch basis. However, trees located within the planned building footprint are not protected and considered exempt for any replacement/mitigation requirements.</li> <li>■ A tree credit is allowed on an inch for inch basis to be used towards required landscaping.</li> </ul>
6	<del>A historic/specimen tree that includes superior qualities and native to the region. No damage, infestation or disease is evident; overall form is excellent.</del>	<ul style="list-style-type: none"> <li>■ The tree may be removed if a part of a development/redevelopment plan AND.</li> <li>■ The tree may be removed if it is demonstrated that the site is not reasonably developable without removing the tree.</li> <li>■ Tree replacement/mitigation shall occur on a two inch for inch basis. However, trees located within the planned building footprint are not protected and considered exempt for any replacement/mitigation requirements.</li> </ul>

		<del>■ A tree credit is allowed on a two inch for inch basis to be used towards required landscaping.</del>
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**(4) Tree removal/replacement standards:**

- ~~a. Trees having a 0, 1, or 2 tree rating may be removed and no replacement value is required. However, minimum lot requirement still applies.~~
- ~~b. Trees having a 3, 4, 5, or 6 tree rating may be removed but the total DBH of the existing tree(s) to be removed shall be replaced with new trees based on the following ratio(s):
  - ~~1. 3, 4, and 5 rated trees shall be replaced on an inch for inch basis.~~
  - ~~2. 6 rated trees shall be replaced on a two inch for inch basis.~~~~
- ~~c. Trees having a 4, 5, or 6 tree rating may be permitted to be removed only if part of site development activity.~~
- ~~d. Replacement trees shall be provided on the same site as the original tree that was removed. The following alternatives may be allowed:
  - ~~1. The applicant may provide a monetary contribution to a formally adopted tree mitigation fund at a rate established by the board of county commissioners.~~
  - ~~2. The tree may be relocated subject to the standards of this section.~~~~

**(5) Tree removal permit:** A tree removal permit is required to remove any existing tree as applicable in this section.

- ~~a. (6) Tree preservation credit standards: Preserved trees having a 3, 4, or 5 tree rating may be credited towards the required landscaping on an inch for inch basis. Trees having a 6 tree rating may be credited at a two inch for inch basis. This credit shall be calculated based on DBH and applied to the minimum landscaping materials required in section(s) 138-3658 and/or 138-3659.~~

**(b) Relocation of existing trees:**

- ~~(1) The relocation of existing trees is not required but is an alternative to clearing/removal. The standards of this section shall apply to the relocation of existing trees.~~
- ~~a. Tree removal permit. Although a tree removal permit is required for tree relocation, the tree removal permit fee may be waived if, in the opinion of the county, appropriate measures are taken to ensure a reasonable chance of survival. Appropriate measures may include the pruning of limbs, root pruning well in advance of relocation, protection of root mass, trunk, branches, and foliage during relocation, relocation to an appropriate planting location, preparation of the new planting pit, and maintenance after completion of the relocation. It is recognized that plant mortality may occur even if such measures are taken.~~

- b. ~~Transplant sites. Relocated trees may be transplanted onto the same site or onto other sites under the same ownership; onto private sites under different ownership with the approval in writing of the owner of that site; or onto public property with the written consent of the county.~~
- e. ~~Value. Relocated trees, if transplanted onto the same site, will be counted as existing trees of the same size when determining conformance with the landscape requirements.~~

## **Sec. 138-3655. Minimum plant material specifications.**

Plant materials which are utilized to satisfy the required landscaping shall comply with the following minimum standards:

- (a) *Plant species selection.*
  - (1) ~~All new and replacement plantings shall be graded State Department of Agriculture Nursery Grade No. 1 or better, as specified by the State Division of Plant Industry Grades and Standards for Nursery Plants manual published by the Florida Department of Agriculture and Consumer Services.~~
  - (2) ~~Any plant material used to meet the minimum standards of this division shall be chosen from the county's approval plant consistent with species requirements as listed in ~~s~~Section 138-3664. Species listed as an undesirable tree in this division cannot be used towards meeting the minimum standards of this division.~~
  - (3) ~~For every ten landscape trees provided, one additional species is required to promote species diversity. Each species should make up at least ten percent of the total number of landscape trees.~~
  - (4) ~~Drought, wind, and disease-tolerant species are encouraged.~~
  - (4) ~~The plant species may be further defined in special districts.~~
  - (5) ~~In the event of a market shortage, the county administrator or designee may approve a reduction of the required caliper to the largest available Grade No. 1 equivalent plant.~~
- (b) *Plant specification requirements.*
  - (1) ~~All plant material shall be graded State Department of Agriculture Nursery Grade No. 1 or better, as specified by the State Division of Plant Industry Grades and Standards for Nursery Plants manual published by the Florida Department of Agriculture and Consumer Services.~~
  - (2) ~~Plants shall meet the minimum specifications as listed in Table 138-3655.a—Plant Specification Requirements at the time of ~~installation~~inspection.~~
  - (3) ~~The plant material specifications may be further defined in special districts.~~
  - (4) ~~In the event of a market shortage, the county administrator or designee may approve a reduction of the required plant material specifications as provided in~~

Chapter 138, Article II, Division 7 – Variances, Waivers and Administrative Adjustments.

**Table 138-3655.a — Plant Specification Requirements**

Plant	Size (at Installation Inspection)	Other Requirements
Shade Tree	2.0" caliper	<ul style="list-style-type: none"> <li>■ Species diversity is preferred over monoculture. Shade trees subject to the minimum number of tree species of this section.</li> <li>■ Must be planted a minimum of five feet from any impervious area.</li> </ul>
Accent Landscape Tree	<ul style="list-style-type: none"> <li>■ 1.5" caliper DBH per stem (2" caliper)</li> <li>■ Six feet minimum overall height</li> </ul>	<ul style="list-style-type: none"> <li>■ Landscape trees must create or enhance urban canopy and may include a combination of small, medium, and large trees. 2 accent trees = 1 shade tree;</li> <li>■ No more than 25% of the required trees may be small trees. No more than 25% of required trees may be accent trees.</li> </ul>
Palm Tree	<ul style="list-style-type: none"> <li>■ 12' clear trunk height</li> <li>■ Six feet minimum overall height</li> <li>■ Certain palms noted on the approved plant list may be substituted on a 1 for 1 basis with shade tree requirements</li> </ul>	<ul style="list-style-type: none"> <li>■ No more than 25% of required trees may be palm trees.</li> <li>■ Staggered clusters of 3 palm trees = 1 shade tree, except for specimen palm trees such as: <i>phoenix canariensis</i> (canary island date palm), <i>phoenix dactylifera</i> (edible date palm) and <i>phoenix reclinata</i> (senegal date palm), which count as shade trees on a 1:1 ratio.</li> </ul>
Shrubs	<ul style="list-style-type: none"> <li>■ Perimeter hedges 24"-in height and 3-gallon size</li> <li>■ Interior hedges, foundation plantings and/or shrubs - 15" in height and 3-gallon size</li> </ul>	<ul style="list-style-type: none"> <li>■ Native species are prioritized.</li> <li>■ Species diversity is preferred over monoculture.</li> <li>■ Perimeter hedges must be Mmaintained at a minimum height of 36" in height.</li> </ul>
Ornamental Grasses	<ul style="list-style-type: none"> <li>■ 1-gallon size</li> </ul>	<ul style="list-style-type: none"> <li>■ Native species are prioritized.</li> </ul>
-Ground Cover/Vines	<ul style="list-style-type: none"> <li>■ 1-gallon N/A</li> </ul>	<ul style="list-style-type: none"> <li>■ Encouraged in lieu of turf to reduce irrigation needs.</li> </ul>

Turf	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>Turf areas are to be consolidated and limited to areas of pedestrian traffic, recreation use and erosion control.</li> </ul>
Mulch	<ul style="list-style-type: none"> <li>3-inches minimum depth for organic mulch</li> </ul>	<ul style="list-style-type: none"> <li>Mulch and similar material must be protected from washing out of the planting bed.</li> </ul>
<b>Notes:</b>		
(1) <del>All new and replacement plantings shall be graded State Department of Agriculture Nursery Grade No. 1 or better, as specified by the State Division of Plant Industry Grades and Standards for Nursery Plants manual published by the Florida Department of Agriculture and Consumer Services.</del>		
(2) <del>In the event of a market shortage, the county administrator or designee may at his/her discretion, approve a reduction of the required caliper to the largest available Grade No. + equivalent plant.</del>		

**(c) *Minimum shade tree species.***

- ~~(1) A minimum variety of shade tree species shall be provided pursuant to Table 138-3655.b Minimum Number of Tree Species.~~
- ~~(2) Each species shall provide a minimum of ten percent of the total number of trees.~~

**Table 138-3655.b Minimum Number of Shade Tree Species**

<del>Total Number of Required Trees</del>	<del>Required Minimum Number of Tree Species</del>
<del>1-9</del>	<del>1</del>
<del>10-19</del>	<del>2</del>
<del>20-29</del>	<del>3</del>
<del>30-49</del>	<del>4</del>
<del>50 over</del>	<del>5</del>

**Sec. 138-3656. Reserved.**

**Sec. 138-3657. Street trees. Reserved.**

- ~~(a) *Applicability.* The provisions of this section apply to the installation, maintenance, and removal of trees in the public right of way.~~
- ~~(b) *Permit required.* All tree installation and removal within the public right of way requires county approval. This may be reviewed as part of the site plan approval process and/or as a Type 1 – Path A (department review) process.~~
- ~~(c) *Installation requirements.* Street tree installation shall be conducted according to the Greenbook (Standard Specifications for Public Works Construction) recommendations.~~
- ~~(d) *Maintenance.* Owners of private property are responsible for the maintenance of trees planted in or extending into the abutting rights of way. The following situations shall also apply:~~

- (1) Where support tree staking and guying is provided at the time of installation, the stakes and guys shall be removed no later than one year after installation to prevent damage to the vegetation.
- (2) Owners of private property shall not be required to pay to remove and replant any tree that they can prove by substantial competent evidence was fatally damaged by any public utility company.
- (e) *Location and spacing.* In general and where practical, street trees shall be of consistent size, spacing, and like species, in order to achieve a "tree lined boulevard" appearance.
  - (1) The typical spacing for shade trees shall be between 20 feet and 40 feet on center.
  - (2) Where site conditions render shade trees impractical, accent or palm trees may be allowed at a spacing of not closer than 20 feet on center and not greater than 60 feet on center, with a typical spacing of between 20 feet and 40 feet, except as otherwise approved by the county.
  - (3) Minimum planting areas shall be in accordance with this division.
- (f) *Tree size and species.* Trees shall comply with section 138-3655, minimum plant material specifications.
- (g) *Alternate landscaping location.* Development and redevelopment may satisfy a portion of their tree planting requirement by planting trees in the right of way adjacent to the subject property subject to county approval.
  - (1) Street trees shall be installed prior to the issuance of a certificate of occupancy and shall be maintained by the owner.
  - (2) Any street trees that have been removed, has died or do not meet the minimum standards of Florida #1, shall be replaced with trees by the owner.
- (h) *Residential neighborhoods.* Street trees shall be installed along all new local roadways within residential subdivisions and neighborhoods. This shall be reviewed as part of the site plan review process.
- (i) *Streetscape plans.* Street trees shall be installed pursuant to any streetscape plan that has been adopted by the board of county commissioners. This includes any streetscape plan that may be a part of a special area plan, development master plan or equivalent thereof. Street trees shall be installed by the abutting property owner or project sponsor at the time of property development/redevelopment.

#### **Sec. 138-3658. Landscaping for single-family detached, attached, two-family, and three-family residential properties.**

- (a) Single-family detached, attached, two-family, and three-family residential properties shall meet the following landscape requirements prior to the issuance of a certificate of occupancy and/or tree permit final inspection:
  - (1) *Minimum trees per lot.* Each developed lot shall have shade or accent landscape trees planted or retained as follows according to the table below.:

a. Trees shall be provided/preserved pursuant to Table 138-3658.a Minimum Trees Per Lot.

Lot Size (square feet)	Minimum Trees Per Lot
<u>≤ 2,500</u>	<u>1</u>
<u>2,501 – 5,000</u>	<u>2</u>
<u>5,001 – 7,500</u>	<u>3</u>
<u>7,501 – 10,000</u>	<u>4</u>
<u>&gt; 10,001</u>	<u>4 plus one tree per 3,000</u>

Note: A maximum of 15 trees will be required to meet minimum trees per lot requirements.

**Table 138-3658.a — Minimum Trees Per Lot**

Lot Size	Minimum Required Trees per lot <sup>(1)</sup>
Less than 3,000 square feet	■ 1 shade or accent tree
3,001 to 6,000 square feet	■ 2 shade trees or accent trees <sup>(1, 2)</sup>
Between 6,001 to 9,500 square feet	■ 4 shade trees or accent trees <sup>(1, 2)</sup>
Between 9,501 to 16,000 square feet	■ 6 shade trees or accent trees <sup>(1, 2)</sup>
16,001 square feet or greater	■ 8 shade trees or accent trees, <sup>(1, 2)</sup> PLUS ■ One additional tree is required for each 2,000 square feet, or portion thereof, in excess of 16,000 square feet

**General Notes:**

1. Shade trees shall be prioritized. Accent trees may only be used and counted towards the minimum trees per lot requirement when adequate planting space and/or light is greatly limited on the lot and would not allow for healthy shade tree growth. Accent trees planted in lieu of required shade trees shall be at a ratio of 2:1.
2. Fifty percent (50%) of lot requirement must be shade trees.

(2) b. Each existing healthy landscape tree with the following dbh DBH measurements can be credited towards minimum landscaping requirements as specified in the table below:

1. 4" dbh-10" dbh      1:1 shade tree credit
2. 10.1" dbh-20" dbh      2:1 shade tree credit
3. 20.1" dbh-36" dbh      3:1 shade tree credit
4. Over 36" dbh      4:1 shade tree credit

**Table 138-3658.b—Tree Preservation Credits**

DBH of tree preserved	Number of tree credits
4" – 14"	1 tree credit
14.1" – 24 "	2 tree credits
24.1" – 34"	3 tree credits

(2) *Existing vegetation.* Existing vegetation shall be eligible to meet the requirements of this section. This shall not apply to any species listed as an undesirable tree.

(3) *Other permeable/unimproved areas.* Permeable/unimproved portions of private property including required yards shall be maintained stabilized with an herbaceous layer of sod, ground cover plant material, or organic mulch, synthetic turf, and/or gravel. Mulch and gravel shall be maintained so that material and sediment does not enter the public storm sewer system. Mulch, gravel, and similar material may be used in planting areas. These materials may not be used as a substitute for sod, groundcover, or synthetic turf, and must be contained to prevent pollution of the municipal separate storm sewer system.

(4) *Organic mulch.* Organic mulch is encouraged around the base of newly installed landscaping. Where used, organic mulch shall be placed at a minimum depth of three inches, and may not be placed directly against plant stems or trunks. a beneficial addition to landscaping in many situations including, but not limited to, providing a surface covering under shrubs, or where groundcover material is maturing. The intention of these regulations is to allow mulch within a landscape while not allowing the entire yard to only be covered in mulch.

a. *Installation standards.* Where used in lieu of sod or groundcover plant material, organic mulch shall be placed to a minimum depth of three inches. The top level of mulch shall not exceed the height of the immediately adjacent ground surface. Mulch shall not be placed directly against a plant stem or tree trunk. Non-organic groundcovers including decorative gravel or crushed stone shall be allowed only in planting areas (e.g., in gardens or hedge areas) and not as a substitute for sod, groundcover or organic mulch.

b. *Limits on installation.* Organic mulch may be used without limit underneath shrubs and trees, provided the groundcover, shrubs, trees or a combination thereof are planted and maintained at a cumulative ratio of at least one plant or tree, planted per each 50 square feet of organic mulched area. Plants or trees are to be planted within the mulch.

c. *Limits on installation in rights of way.* Organic mulch may be used in permeable areas of the right of way to keep moisture in the soil while other forms of approved groundcover plant material are maturing. Mulch is prohibited within four feet of the curb or edge of pavement, if there is no curb. Mulch in the right of way must be contained within borders sufficient to prevent flotation of mulch into the roadway. With the exception of permitted driveway or sidewalk materials, the use of shell, rock or other similar hardened non-organic surface materials in the right of way is prohibited.

(5) *Irrigation.* Irrigation systems are not required but are encouraged to ensure successful establishment and maintenance of landscaping.

(6) *Mobile home park lots.* Individual lots in mobile home parks shall be required to plant one shade or accent tree per lot. When determining replacement requirements for tree

~~removal from individual lots in mobile home parks, required replacements shall not be required to be replaced on individual lots but shall be replaced into areas maintained by the park as a whole, such as common areas, buffer areas, and areas around retention ponds. Where a mobile home park does not wish to replace a tree, a fee in lieu of replacement shall be required.~~

- (7) *Sight triangle.* All landscaping shall comply with the provisions of ~~S~~ection 138-3508, sight visibility triangles.
- (b) All required landscape material shall be provided on the subject site. The following alternatives may be allowed:
  - (1) ~~The required trees/shrubs may be planted within the abutting right of way when allowed by the roadway facility owner (i.e., local government, developer, or property owners association); AND/OR~~
  - (12) The applicant may provide a monetary contribution in lieu of on-site planting for up to 40 percent of the landscape tree requirement. The contribution will go to a formally adopted tree mitigation fund at a rate established by the board of county commissioners; ~~AND/OR~~
  - (2) The applicant may plant the required landscape trees within common areas with written permission from the property owners association;
  - (3) The county administrator or designee; ~~may~~ allow applicants to construct and maintain structures with plant material that provide similar shade and vegetation function as a tree, (e.g., arbors with vines, shrubs, or similar plant material.) In this alternative, the ~~amount number~~ of required trees may be reduced based on a near equivalent shade/vegetation function of a tree.

#### **Sec. 138-3659. Non-residential and multifamily landscaping standards.**

- (a) *Applicability.* The following standards shall apply to landscaping for nonresidential and multifamily uses/developments.
  - (1) *Perimeter surface parking lot landscaping.* A perimeter landscaping buffer shall be provided around all surface parking lots~~vehicular use areas~~. The required perimeter parking lot landscaping may be combined with other perimeter landscape areas (e.g., buffers along streets and/or abutting a residential use).
    - a. Perimeter Landscaping areas shall be a minimum of five feet in width~~as measured from the edge of the vehicular use area and contain the following plant material:~~
    - b. ~~Landscaping areas shall include the following minimum plant material:~~
      - 1. Three landscape trees per 100 linear feet.
      - 2. Continuous plantings~~hedge of shrubs and/or ornamental grasses~~ of at least two feet in height~~and spaced a maximum of 30 inches on center.~~ ~~The continuous plantings may consist of shrubs and/or ornamental grasses,~~

~~excluding turf grass. Plant material shall be spaced a maximum of 30 inches on center.~~

e. ~~For buffers that contain overhead utility lines, the requirement for shade trees may be altered to accent trees, and/or sabal/cabbage palms in clusters of three, at a ratio of 2.5 accent/palms for each required shade tree. These trees shall be grouped in clusters of three at a maximum of 12 feet on center.~~

(2) *Interior surface parking lot landscaping.* ~~Parking lots with more than ten parking spaces shall provide interior landscaping. The interior portions of each parking areas shall be landscaped pursuant to the following:~~

a. *Islands.* ~~Interior islands shall be provided every 24 spaces on average. Terminal islands shall be provided at the end of each row of parking spaces.~~

1. ~~Each terminal or interior island shall be a minimum of eight feet in width, measured between the inside of the curbs, and contain at least 150 square feet of planting area.~~

2. ~~Each island shall contain one landscape tree per 150 square feet of planting area, or fraction above half thereof, with a minimum of one tree per island.~~

3. ~~Each island shall also contain ornamental grasses and/or ground cover (excluding turf grass) planted to achieve 100 percent coverage within two years.~~

a. *Required landscaped area.* ~~Vehicular use areas with more than ten parking spaces shall provide interior parking landscaping. Terminal and interior islands and divider medians shall be used to comply with required interior parking lot landscaping.~~

b. *Terminal islands.* ~~Each row of parking spaces shall end with terminal islands to separate parking from adjacent drive lanes. Terminal islands shall be provided as follows:~~

1. ~~Each terminal island shall measure at least eight feet in width, measured from the inside of the curb.~~

2. ~~Terminal islands shall provide at least 150 square feet in landscaping area.~~

3. ~~Within terminal islands, one shade tree shall be required for every 150 square feet (or fraction above half thereof) of the interior parking lot landscaping, with a minimum of one shade tree required per terminal island.~~

4. ~~Terminal islands shall be landscaped with shrubs, accent plants, ornamental grasses and groundcover, excluding turf grass, planted to provide 100 percent coverage within two years.~~

5. ~~Shrubs, accent plants and ornamental grasses in islands adjacent to parking spaces shall be set back a minimum of two feet behind the edge of the planting area to provide for pedestrian access to parked vehicles.~~

e. *Interior islands.* ~~Interior landscaping islands shall be provided within parking areas pursuant to the following:~~

1. ~~No more than an average of 24 parking spaces shall be allowed between islands in order to reduce the overall scale of the parking area.~~
2. ~~Each interior island shall measure at least eight feet in width, measured from the inside of the curb. Interior islands less than eight feet in width shall not be credited towards interior landscaping.~~
3. ~~Within interior islands, one shade tree shall be required for every 150 square feet (or fraction above half thereof), with a minimum of one shade tree required per interior island.~~

db. *Divider medians.* Parking lots ~~in excess of~~<sup>with more than</sup> 250 spaces shall provide landscaped divider medians ~~along all access drives, between parking areas abutting access drives, and between at least half~~ for a minimum of 50 percent of all abutting rows of parking. ~~Each median shall form a continuous strip of landscaping~~ pursuant to the following:

1. ~~Divider medians shall be at least four feet wide as measured from the inside of the curb. These divider medians shall be designed to form a continuous landscaped strip between abutting rows of parking areas.~~
2. ~~Each median shall contain three landscape trees per 100 linear feet.~~
3. ~~Each median shall contain a continuous hedge of shrubs and/or ornamental grasses.~~
2. ~~All access drives shall have divider medians.~~
3. ~~The minimum width of a divider median shall be four feet, measured from the inside of the curb.~~
4. ~~Three shade trees or six accent trees shall be required for each 100 linear feet of divider median (or fraction thereof).~~
5. ~~Shrubs shall be planted in divider medians which separate parking areas from access drives to form continuous plantings the full length of the divider median.~~

(3) *Stormwater ~~feature~~ponds and water bodies* landscaping. Stormwater ~~ponds and water bodies~~ features may be required to be landscaped pursuant to the Pinellas County Stormwater Manual.

(4) *Landscaping fence/wall for nonresidential, subdivision, and multifamily projects.* Fences and walls shall be landscaped pursuant to the following standards:

- a. Any street-facing fence/wall shall be landscaped with ~~the following~~:
  1. Continuous ~~plantings~~ hedge of shrubs and/or ornamental grasses, and
  2. Three ~~shade~~ landscape trees ~~or six accent trees for each~~ per 100 linear feet along the fence/wall (or fraction thereof).
  3. These requirements may be combined with other perimeter landscaping areas (e.g., perimeter landscaping along a street).

b. When a fence/wall is erected within a perimeter landscaping area, any required plant material shall be installed in the following arrangements:

1. When the fence or wall is located along side or rear property lines, the required plant material *may* be placed on the inside of the fence/wall.
2. When the fence or wall is located along a street right-of-way the following shall apply.
  - i. Required plant material *may* be placed on the inside of the fence/wall when the fence/wall is 36 inches or less in height or semi-transparent in nature.
  - ii. Required plant material *shall* be provided on the right-of-way side of the fence/wall (but not within the right-of-way) when the fence/wall is opaque and exceeds 36 inches in height. Sight visibility standards per section 138-3508 must be met.

~~(5) Landscaping adjacent dumpster enclosures. Dumpster enclosures visible from any street shall be landscaped with plantings. This shall not apply to portions of the enclosure with doors or gates.~~

~~(56) Landscaping adjacent to mechanical equipment and dumpster enclosures.~~ Mechanical equipment, such as backflow prevention devices, utility cabinets, and air conditioners, and dumpster/recycling receptacle enclosures that are visible from the street, excluding alleys, shall be landscaped on at least two sides with a continuous plantings hedge comprised of shrubs and/or ornamental grasses planted spaced no more than 30 inches on center. This requirement may be waived if the screening will inhibit safety, accessibility and maintenance.

~~(67) Foundation landscaping.~~ Foundation planting shall be provided along the base of street-facing building facades subject to the following:

- a. Planting areas shall be a minimum of five feet in width as measured from the building edge and outward.
- b. Planting areas shall include the following minimum plant material: contain shrubs and/or ornamental grasses spaced no more than 30 inches on center.
  1. Two accent trees per 100 linear feet.
  2. Twenty evenly spaced shrubs/plants/ornamental grass per 100 linear feet.
- c. Alley facing facades, areas of ingress/egress, areas of facade glazing, and patios or paved courtyards are exempt from foundation plantings. The following conditions or features are exempt:
  1. Alley facing facades,
  2. Areas of ingress/egress,
  3. Patios and paved courtyards, and/or
  4. Similar elements as above.

- d. Where the foundation landscaping requirements conflict with any applicable buffering standards from article IX, specific use standards AND/OR the design criteria for the underlying zoning district, the most restrictive standard shall apply.
- e. Foundation landscaping may be designed/constructed ~~edion~~ as LID stormwater facilities.

(78) *Buffer averaging option.* Portions of the minimum required perimeter landscaping/buffers may be reduced up to one-third of the minimum width. However, additional landscaping areas shall be provided in other portions of the site to result in an overall buffer width that meets or exceeds the minimum standard.

(b) All required landscape material shall be provided on the subject site. The following alternatives may be allowed:

- (1) The required ~~trees/shrubs~~ landscaping may be planted within ~~the abutting right-of-way~~ common areas when allowed by the ~~roadway facility owner (i.e., local government, developer, or~~ property owners association); AND/OR
- (2) The applicant may provide a monetary contribution to a formally-adopted tree mitigation fund at a rate established by the board of county commissioners; AND/OR
- (3) The county administrator or designee may allow applicants to construct and maintain structures with plant material that provide similar shade and vegetation function as a tree (e.g., arbors with vines, shrubs, or similar plant material). In this alternative, the amount of required trees may be reduced based on a near equivalent shade/vegetation function of a tree.

#### **Sec. 138-3660. Scenic noncommercial corridor landscaping standards.**

(a) *Applicability.* The following standards shall apply to landscape buffering for development adjacent to a Scenic Noncommercial Corridor. Roads designated Scenic Noncommercial Corridors can be found in the Pinellas County Comprehensive Plan. The intent of the buffer area is to provide an adequate area for landscaping and other screening to assist in minimizing any negative visual impacts potentially created by onsite uses.

(b) *Standards.*

- (1) The landscape buffering requirement is based on the Scenic Noncommercial Corridor designation in Table 138-3660.a.
- (2) Areas of access and sight visibility standards are exempt from these standards.
- (3) Trees may be clustered in informal groupings provided the total number of trees is provided.
- (4) The width of the ~~B~~ buffer may vary due to specific site constraints, however, the average width of the ~~B~~ buffer over the length of the site shall meet the specified standard.
- (5) Height of hedge/landscape screening must be obtained within three years.

(6) Other screening/buffering methods may be allowed provided that the resulting situation meets the buffering intent. This may be approved as part of the site plan review process.

<b>Table 138-3660.a - Scenic Noncommercial Corridor Buffer Standards Matrix</b>					
Corridor Type:	Rural/Open Space	Residential	Mixed Use	Unique Scenic View	Enhancement Connector
Buffer Width	25 feet	15 feet	10 feet	25 feet	10 feet
Number of Trees per Buffer Length	1 per 25 feet	1 per 25 feet	1 per 35 feet	Accent Trees	1 per 50 feet
Height of Visual Screen	N/A	6 feet	3 feet	N/A	3 feet
Setback for Wall/Fence	10 feet	10 feet	10 feet	N/A	10 feet
Screening Methods (choose one):					
Berm with Hedge or;	Y	Y	Y	N/A	Y
Wall with Hedge	N/A	Y	Y	N/A	Y

## **Sec. 138-3661. Reserved.**

## **See. 138-3662. Low impact development (LID) landscaping. Reserved.**

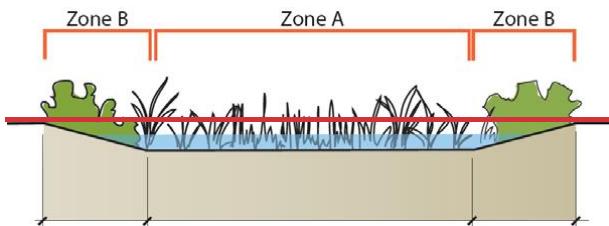
~~Low impact development (LID) is an ecologically based stormwater management approach favoring soft engineering to manage rainfall on site through a vegetated treatment network. The goal of LID is to sustain a site's pre-development hydrologic regime by using techniques that infiltrate, filter, store, and evaporate stormwater runoff close to its source. Contrary to conventional "pipe and pond" conveyance infrastructure that channels runoff elsewhere through pipes, catchment basins, and curbs and gutters, LID remediates polluted runoff through a network of distributed treatment landscapes. The use of LID shall be implemented in conjunction with the Pinellas County Stormwater Manual.~~

~~The toolbox of LID integrated management practices, including structural and nonstructural designs, is most effective when applied in a treatment train, or series of complementary stormwater management practices and techniques. Typically, LID practices will not completely replace more conventional "bottom of the hill" stormwater management practices, but can be used to complement these practices and to ensure that the entire stormwater management system meets the Pinellas County water resources objectives. LID practices are optional and may be incorporated to landscaping areas.~~

### **(a) LID planting zones.**

~~Surface grade and ponding area of a bio-retention structure are the first factors to consider when choosing which plants to specify. Stormwater planters and some rain~~

gardens have uniform surface grades. In these designs, ponding will be equal across the structure and all plants will have the same conditions (Zone A). In bio-retention swales and some rain gardens, soil surface is sloped, resulting in differing planting conditions across the structure (Zones A and B). Plants located at the bottom where ponding occurs, will have different requirements than those placed on the sideslopes, which receive runoff, but not ponding. A third planting area may occur outside of Zones A and B, on the upper edges of rain gardens and bioswales (see Figure 138-3662.a). This area is not a functional component of the bio-retention area, and therefore can be treated as a traditional landscape area.



**Figure 138-3662.a Planting Zones**

**(b) LID plant species selection:**

Once the plant zones are identified (Zone A only or both Zone A and Zone B) for a structure, the plants may be selected. Plant selection should take into account the following factors:

- (1) Tolerance of varied moisture conditions (wet and dry);
- (2) Tolerance of varied soil types and growing conditions;
- (3) Availability in Central Florida plant nurseries;
- (4) Low maintenance requirements;
- (5) Are not invasive weeds;
- (6) Do not have aggressive/invasive root systems; and
- (7) Exhibit an attractive appearance.

When selecting plants, additional site specific information, such as tolerance to high and low temperatures, coastal conditions and prevailing winds should be considered. In addition, project specific aspects of the design, for example right of way vegetation height limits, may further influence selection. Pinellas County Stormwater Management Manual includes acceptable LID options.

**Sec. 138-3663. Reserved.**

**Sec. 138-3664. Approved plant species list.**

The following standards apply to all plant material that may be required by used to meet the requirements of this Code shall be composed of species that meet the following requirements.

- (a) *Florida-friendly.* The proposed plant material shall be of a Florida-friendly species based on the latest publication of the Florida-Friendly Landscaping™ (FFL) Guide to Plant Selection and Landscaping Design by the University of Florida Institute of Food and Agriculture Sciences (UF/IFAS). FFL species are those that are considered to be well adapted to growing in Florida landscapes and pose little risk of becoming a nuisance or invasive species and the proposed site location.
- (b) *Soils and light Site Conditions.* The proposed plant species shall be considered appropriate for the specific conditions at the proposed development site, including but not limited to soil type, hydrology, elevation, and natural lighting conditions, location of buried or overhead utilities, and other existing desirable vegetation at the proposed planting location.
- (c) *Region.* The proposed plant species shall be favorably rated for the Pinellas County region pursuant to the United States Department of Agriculture (USDA) Plant Hardiness Zones Map.
- (d) *Non-invasive.* The proposed plant species shall not be an invasive variety that is listed in Table 138-3653.a—Undesirable Trees/Plants Nuisance and Invasive Species.
- (e) *County approved species list.* The proposed plant material may be selected from a list of approved species published on the county's website.
- (e) *Plant list option.* The proposed plant species may be based on the latest publication of the Florida-Friendly Landscaping™ Guide to Plant Selection & Landscaping Design by the University of Florida Institute of Food and Agriculture Sciences (UF/IFAS).

**Secs. 138-3665—138-3699. Reserved.**

## **Chapter 166 ENVIRONMENTAL AND NATURAL RESOURCE PROTECTION**

### ***ARTICLE I. IN GENERAL***

#### **Sec. 166-1. Water preservation in new developments.**

- (a) All development regulations in the county shall accommodate the following provisions for water preservation or as may be specified in the county stormwater manual:
  - (1) All new development that requires irrigation shall be connected to the county's reclaimed water system if available. If reclaimed water is not available shallow wells with an adequate distribution system to serve that need for irrigation shall be installed and operated for that purpose. The distribution system for irrigation shall not be connected to the county or municipal potable water sources.
  - (2) With respect to the drainage system of all new developments, maximum use shall be made of lakes and retention ponds for irrigation purposes and to reduce the runoff. The stormwater runoff should not exceed the runoff from the site in the undeveloped state.

- (3) All water systems shall prohibit the installation of water meters of a size that would provide for lawn sprinkling in conjunction with domestic use.
- (b) All territory within the legal boundaries of the county, including all incorporated and unincorporated areas that are served by or connected to the county water system, shall be embraced by the provisions of this section.
- (c) For the purposes of this section only the following definitions shall apply:

*Irrigation* means water used for the purpose of maintaining landscaped material such as grass, trees, shrubs and other flora.

*New development* means any change to the existing state of land development on any given parcel, including new construction and substantial remodeling of existing structures.

### **Sec. 166-2. Variances.**

Variances and modifications to the requirements of this article may be reviewed and processed pursuant to chapter 138 article II division 7, variances, waivers, and administrative adjustments.

### **Sec. 166-3. Appeals.**

Any persons adversely affected by a decision of the county administrator in the permitting, enforcement or interpretation of any of the terms or provisions of this article may appeal such decision as allowed and defined in chapter 138 article II pursuant to the required project review type.

### **Secs. 166-4—166-35. Reserved.**

## ***ARTICLE II. HABITAT MANAGEMENT AND PROTECTION<sup>1</sup>***

### ***DIVISION 1. GENERALLY***

### **Sec. 166-36. Definitions.**

*Adverse impact* means any direct or indirect action likely to cause, or actually causing, a measurable decline in the stability, natural function, ~~or natural diversity of a body of water or floodprone lands~~ or the quiet, peaceful, safe or healthful use of occupancy of any property. This includes, but is not limited to the quality, quantity, hydrodynamics, surface area, species composition, living resources, aesthetics or usefulness for human or natural uses which are or potentially may be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity or stability or which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation. The term includes secondary and cumulative as well as direct impacts.

*Approved species list* means a list of tree species approved as replant or landscape trees and which is available from the department.

*Caliper* means trunk diameter measured six inches above the soil line. Also see diameter breast height (DBH).

*Compensation* means measures provided to offset adverse impacts to wetlands, including one or more of the following:

- (1) Mitigation;
- (2) Inclusion of upland areas, beyond any required buffer zones, to maintain upland/wetland habitat diversity;
- (3) Establishment of vegetated littoral zones in on-site open water bodies;
- (4) Restoration of wetlands that have been previously impacted;
- (5) Compensation on off-site lands; and
- (6) Other reasonable measures, such as providing unlike wetland habitat.

*Development or development activity* means:

- (1) The construction, installation, alteration, demolition or removal of a structure or an impervious surface.
- (2) Clearing, scraping, grubbing or otherwise removing, altering or destroying the vegetation of a site.
- (3) Adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, or otherwise significantly disturbing the soils or altering the natural topographic elevations of the site.
- (4) The maintenance of a lawn and its ancillary vegetation, excluding uplands as required in section 166-50 is exempted.

*Diameter breast height (DBH)* means the diameter, in inches, of a tree measured at four and one half feet above the natural grade. The diameter of multiple trunks shall be added together for this measurement.

*Dripline* means an imaginary, perpendicular line that extends downward from the outermost tips of the tree branches to the ground.

*Effectively remove* means to trim or prune to the extent that a plant's natural function is severely altered.

*Endangered, threatened or Imperiled species of special concern* means the list of plant and animal species as defined pursuant to rules 68A-27.003 Florida Administrative Code, 379.2291 and 581.182 Florida Statutes, 39-27.003-.005, Florida Administrative Code, or Title 50, CFR§ 17.11-12 Code of Federal Regulations, or F.S. § 581.185.

*Ground cover* means low-growing plants, other than deciduous varieties, installed to form a continuous cover over the ground.

*Grubbing* means the effective removal of understory vegetation ~~such as, but not limited to, palmetto~~ from the site. ~~As herein defined, no tree four inches dbh or greater shall be removed.~~

*Hedge* means a continuous arrangement of shrubs and/or ornamental grasses for the purpose of screening or dividing spaces which are planted at a minimum height of 24 inches and maintained at a minimum of 36 inches.

*Historic tree* means a tree which has been found by a professional forester, horticulturist, or other suitable professional to be of notable historic interest to the county because of its age, type, size, or historic association and has been so designated and that designation has been officially made and promulgated as part of the official records of the county.

*Isolated wetland* means any wetland as defined in this article which is not contiguous with the waters of the state as defined in the Florida Administrative Code.

*Landscape Tree* means a tree selected from the approved species list that is used to meet the minimum landscape requirements provided in Chapter 138, Article X, Division 3, and is a minimum of 1.5 inches DBH, at least six feet tall, and Florida Grade No. 1 quality or better at time of inspection.

*Landscape tree* means a tree from the approved species list which is a minimum one and one half inch caliper and six feet tall at time of planting, unless approved otherwise by the county administrator, and is a state department of agricultural nursery grade no. 1 or better.

*Native vegetative communities* means those plant communities naturally occurring in the county. Native vegetative communities shall include but not be limited to sandhill, xeric hammock, upland hardwood forest, pine flatwoods, sand pine scrub and wetlands.

*Mangrove* means any rooted trees or seedlings, of any size, including the following species: White mangrove (*Laguncularia racemosa*), red mangrove (*Rhizophora mangle*), black mangrove (*Avicennia germinans*), and buttonwood (*Conocarpus erectus*). This definition is to include all subspecies and varieties of the listed species as well as their synonyms.

*Mitigation* means the creation of habitat in compensation for the adverse impacts associated with a permitted activity. Includes the replacement of a wetland or native vegetative community, type for type, to restore those specific physical and functional characteristics which will be lost as a result of the proposed activity.

*Pine flatwoods* consist of flat topography; sand substrate with an organic hardpan; vegetation characterized by slash pine or longleaf pine, Chapman's oak, and myrtle oak or wax myrtle with a midstory of saw palmetto, gallberry or wiregrass understory.

*Plant material* means plants used to meet the requirements of the Land Development Code which conform to the standards within Sec. 138-3655. Minimum plant material specifications for Florida No. 1, or better, as given in the existing Grade and Standards for Nursery Plants, State of Florida, Department of Agriculture, Tallahassee, or equal thereto at the time of purchase inspection of plant material.

*Preliminary land clearing* means those operations where trees and vegetation are removed within designated road rights-of-way, drainage and utility areas as depicted on a preliminary site plan and which occur previous to the construction of buildings.

*Protective barrier* means a physical structure limiting access to a protected area, composed of wooden and/or other suitable materials, which assures compliance with the intent of this article. Diagrams of suitable protective barriers shall be available from the department. Options

and/or variations of these methods may be permitted upon written request if they satisfy the intent of this article.

*Protected vegetation* means any naturally occurring plant species located within a native vegetative community, wetland, or specimen tree stand as defined in this article or the Pinellas County Comprehensive Plan.

~~Preliminary land clearing means those operations where trees and vegetation are removed within designated road rights of way, drainage and utility areas as depicted on a preliminary site plan and which occur previous to the construction of buildings.~~

*Remove or removal* means the actual removal of vegetation by digging up or cutting down, or damage of the vegetation or alteration of a site through the application of herbicides or other chemical agents.

~~Replant tree means a tree from the approved species list which is a minimum one and one-half inch caliper and six feet tall at time of planting unless approved otherwise by the county administrator and is a state department of agricultural nursery grade no. 1 or better.~~

*Sand pine scrub* consists of upland plant communities found on relict dunes or present and former shorelines where the soil is composed of any well-drained, sterile sands. The community is composed of two layers with sand pine occupying the top layer and various scrub oaks and shrub species creating a thick understory. The understory typically includes myrtle oak, Chapman's oak, sand live oak, rosemary or lyonia.

*Sandhill* means deep sand substrate; xeric; vegetation characterized by longleaf pine, sand pine, turkey oak or bluejack oak with wiregrass understory.

*Site* means any tract, lot or parcel or combination of lots or parcels of land where development or redevelopment can occur and which any modification, new construction or split is subject to site plan requirements as defined in chapter 138, article II, division 5.

*Site plan* means a graphically drawn plan view of a site which shows all proposed or existing manmade improvements and which includes buildings, parking areas, utility lines, drives, roads, topographic changes, and natural features.

*Specimen tree* means:

- (1) ~~Any tree in fair or better condition which equals or exceeds the following diameter sizes:~~
  - a. ~~Large hardwoods, e.g., oaks, hickories, sweetgums, gum, etc., 36 inches dbh.~~
  - b. ~~Large softwoods, e.g., pines, cypress, cedars, etc., 20 inches dbh.~~
- (2) ~~A tree in fair or better condition must meet the following minimum standards:~~
  - a. ~~A life expectancy of greater than 15 years.~~
  - b. ~~A relatively sound and solid trunk with no extensive decay or hollow, and less than 20 percent radial trunk dieback.~~
  - c. ~~No more than one major and several minor dead limbs (hardwoods only).~~
  - d. ~~No major insect or pathological problem.~~

- (3) A lesser sized tree can be considered a specimen if it is a rare or unusual species, of exceptional quality, or of historical significance.
- (4) A lesser size tree can be considered a specimen if it is specifically used by a builder, developer, or design professional as a focal point in a project of landscape.

*Specimen tree stands* means a contiguous grouping of trees which has been determined to be of high aesthetic or ecological value by the judgment of a professional forester, horticulturalist, or other suitable professional. Determination is based upon the following criteria:

- (1) A relatively mature even-aged stand; and
- (2) A stand with purity of species composition or of a rare or unusual nature; or
- (3) A stand of historical significance; or
- (4) A stand with exceptional aesthetic quality; or
- (5) A stand which provides wildlife habitat diversity which is important for species existence.

*Structure* means any object, constructed or installed by man, including, but without limitation thereof, buildings, towers, smokestacks, utility poles and overhead transmission lines. The term "structure" shall be construed as if followed by the words "or part thereof."

~~*Transplant* means the digging up of a tree from one place on a site and the planting of the same tree in another location.~~

~~*Tree survey* means a maximum one inch equals 50 feet scale drawing which provides the following information: Location of all trees protected under the provisions of this article, plotted by accurate techniques; the common name of all the trees; and the dbh of each tree.~~

*Trim or prune* means to cut away or remove any portion of a plant.

*Upland hardwood forest* consists of rich sandy substrate; best developed where limestone or phosphate outcrops occur; mesic; rare or no fire; vegetation may be characterized by magnolia, pignut hickory, laurel oak and other hardwoods. Species composition varies. A major variation of this vegetative association includes live oak-cabbage palm hammock.

~~*Vehicular use area* means and includes all areas used for the circulation, parking, or display of any and all types of vehicles, boats or heavy construction equipment, whether self propelled or not, and all land upon which vehicles traverse as a function of the primary use. This shall include, but is not limited to, activities of a drive-in nature.~~

*Wetland* means all those waters, fresh and saline, or areas which are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation specifically adapted to life in saturated conditions. Such wetland vegetative indicators shall be those species listed in the Florida Administrative Code. Wetlands include, but are not limited to, rivers, lakes, streams, springs, impoundments, swamps, hydric hammocks, marshes, bogs, sinkholes, estuaries, sloughs, cypress heads, mangrove forests, bayheads, bayous, bays, and open marine waters, whether on private or public lands and whether they are manmade or natural. ~~Wetlands shall not include stormwater retention ponds. Xeric hammock consist of deep sand substrate; xeric; vegetation characterized by sand live oak or Chapman's oak.~~

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### **Sec. 166-37. Intent.**

Trees, native vegetative communities, and wetlands communities provide and maintain beneficial public resources; therefore, it is the intent of the board of county commissioners to protect such environmental resources as set forth in this article. In addition, it is further the intent of the board of county commissioners to protect and maintain environmental features affected by site development and land usage.

### **Sec. 166-38. Territory embraced.**

This article shall be effective in the incorporated as well as unincorporated areas of the county; however, to the extent this article conflicts with a municipal ordinance, the municipal ordinance shall prevail.

### **Sec. 166-39. Penalty for violation of article.**

Whoever shall violate the provisions of this article, as defined pursuant to section 166-43, may be subject, upon conviction, to punishment as provided in section 134-8. In any prosecution under this article, the violation of any provision of this article may constitute a separate offense for each tree. Each separate protected plant removed or trimmed without a permit will also constitute a separate violation. Further, each day of the violation of the provision(s) of this article may constitute a separate offense. In addition to the sanctions contained in this section, the county may take any other appropriate legal action, including, but not limited to, emergency injunctive action, to enforce the provisions of this article. The county may also seek civil remedies pursuant to Laws of Fla. ch. 90-403, the "Pinellas County Environmental Enforcement Act" (compiled in ch. 58, art. II).

### **Secs. 166-40, 166-41. Reserved.**

### **Sec. 166-42. Emergencies.**

In case of emergencies, such as hurricane, windstorm, flood, freeze or other disasters, the requirements of this article may be waived by the county administrator or designee, upon finding that such waiver is necessary so that public or private work to restore order in the county will not be impeded.

### **Sec. 166-43. Liability for violation of article.**

Whenever a violation of this article occurs or exists, or has occurred or existed, any person, individually or otherwise, who has a legal, beneficial or equitable interest in the facility or instrumentality causing or contributing to the violation, or who has a legal, beneficial or equitable interest in the real property upon which such violation occurs or exists, or has occurred or existed, shall be jointly and severally liable for such violation.

- (1) This provision shall be construed to impose joint and several liability upon all persons, individually or otherwise, who, although such persons may no longer have any such

legal, beneficial or equitable interest in such facility or instrumentality or real property, did have such an interest at any time during which such violation existed or occurred or continued to exist or to occur.

(2) This provision shall be liberally construed to protect the public health, safety, and welfare and to accomplish the purposes of this article.

#### **Sec. 166-44. Civil penalties.**

In addition to the penalties provided in section 166-39, the board of county commissioners may institute a civil action in a court of competent jurisdiction to recover damages for any degradation, alteration, or elimination of or to the water, soil, natural resources, or animal or plant life of the county caused by a violation of this article. The computation of civil damages will incorporate the expense of restoring the damaged habitat to its pre-violation condition and function. The civil penalty amount may be calculated using the Uniform Mitigation Assessment Method (UMAM), Council of Tree and Landscape Appraisers (CTLA) Guide for Plant Appraisal, or other professionally accepted methods. ~~The civil penalty for violations of this article, which consist of trees removed, damaged or killed without a permit, will be computed using the following criteria:~~

~~(1) *Tree valuation.* The valuation of tree(s) removed, damaged or killed without a permit will be calculated utilizing the following methods:~~

~~a. Inch for inch diameter at breast height (dbh) replacement: The replacement of a tree with a tree or trees of the same or similar species in sufficient number so that the sum of the dbh of the replacement trees equals or exceeds the dbh of the tree(s) that were removed, damaged or killed without a permit. Number of inches of trees removed may be determined by surveys, field inspection, aerial interpretation, ground truthing, statistical analysis of trees on adjacent properties, and other appropriate methods and criteria.~~

~~b. Values as established by the International Society of Arboriculture, shade tree formula.~~

~~c. Other professionally accepted methods.~~

~~d. Other replacement requirements pursuant to chapter 138 article X division 3.~~

~~(2) *Method of payment.* The civil penalty for violations of this article will be paid to the county as follows:~~

~~a. Tree replant requirements: The violator must fulfill the tree replant requirements for the subject property as specified in the guideline for tree replant requirements in section 138-3654 and 138-3655. If, as determined by the county, required tree replant requirements cannot be adequately met on site, then the violator shall contribute to the tree bank fund, per subsection b., below.~~

~~b. Tree bank fund: Valuation of trees as computed in subsection (1) of this section shall be paid to the tree bank fund either by the planting of or transference of the appropriate number of tree replants or money, or a combination of tree replants and money.~~

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### **Sec. 166-45. Withholding of certificate of occupancy.**

The county administrator may withhold the issuance of the required certificate of occupancy, or permits and inspections, on any development permitted under this article until the provisions of this article, including conditions of any permits issued under this article, have been fully met.

### **Sec. 166-46. Active site plan exemptions.**

Site plans which were accepted for review by the county prior to adoption date of this update, and which have an active status as determined pursuant to chapter 138, shall not be required to comply with the specific provisions of section 166-50, and section 166-51, provided that:

- (a) When final site plan comments or reports defined pursuant to the zoning ordinance are provided to a site plan applicant, the applicant shall have 90 days in which to revise and resubmit a site plan, in compliance with such comments or reports, to the county for further review. Site plans not revised and received within such 90-day period shall be reviewed for compliance with all the requirements of this article in effect on the date of resubmittal. When the resubmitted site plan is received within such 90 days, the plan shall be reviewed under the requirements of this article with the exception of the specific requirements of section 166-50.
- (b) The terms and conditions of subsection (2) of this section shall also apply to preliminary site plans except that the referred 90-day time frame shall be 180 days.

### **Sec. 166-47. Ratification of prior regulations.**

All actions previously taken by the board of county commissioners pursuant to previously enacted rules and regulations are hereby confirmed and ratified.

### **Sec. 166-48. Interpretation of other laws and regulations.**

Where other lawful codes, ordinances, regulations or statutory provisions are referenced within this article, such references shall include lawful revisions or amendments thereto which may occur from time to time.

### **Sec. 166-49. Vegetation protection during construction.**

- (a) *Placement of solvents, material, construction machinery, or soil.* It shall be unlawful for any person engaged in development activity to place solvents, construction material, construction machinery, or temporary soil deposits within six feet or two-thirds of the dripline, whichever is greater, of any tree to be retained of four inches ~~dbh~~ DBH or greater or within six feet of other protected vegetation as required under the provisions of this article.
- (b) *Protective barriers.* Prior to ~~land~~ development activity, the owner or his agent shall be required to erect a suitable protective barrier(s) for all protected vegetation and placards, posted on the barricades, indicating the purpose of such barriers and the penalties for

unauthorized removal. The protective barrier(s) and placards shall remain erected until such time as they are authorized to be removed by the county or upon completion of final lot grading and placement of final ground cover. Removal of vegetation within the protective barriers shall require approval by the department. Failure to obtain such approval shall be considered a violation of this article. Diagrams of suitable protective barriers and placard(s) shall be available from the department. During construction, no attachments or wires shall be attached to any protected vegetation. Wood, metal or other substantial material shall be utilized in the construction of barriers.

#### **Sec. 166-50. Upland buffers adjacent to wetlands Wetland Protection.**

- (a) *Wetland protection buffers.* It is the purpose of an upland buffer to further protect wetlands, their associated wildlife and water quality from adjacent development impacts. Such impacts include siltation, eutrophication, noise, artificial light intrusion and human and domestic animal intrusion. Upland buffers will also provide for preservation of upland wildlife habitat.
  - (1) Upland Wetland buffer requirements.
    - a. Upland bBuffers shall be required immediately adjacent to a wetland in accordance with Table 138-3660.a Wetland Protection Upland Buffers, or as otherwise specified in this section.
    - b. The upland buffers are required to be shown on a site plan upon submittal through the county's site plan regulations and review procedures. The buffers must be preserved during site development.
  - (2) The upland buffer and its associated wetlands shall be recorded in the public records of the county as a conservation easement in accordance with F.S. § 704.06 and/or created as a conservation easement on the recorded plat for the development.
  - (3) The following exemptions shall apply to the wetland protection buffer requirements:
    - a. Individual single-family lots are exempt; however, replats and subdivisions are subject to the standards of this article.
    - b. Catwalks, boardwalks, and walkways.
  - (4) Where the wetland protection upland buffers conflict with any applicable buffering standards from chapter 138, article IX specific use standards and/or the design criteria for the underlying zoning district, the wetland buffers shall prevail.
  - (5) Wetland protection upland buffer areas may be combined with any required open space area from chapter 138, article IX specific use standards and/or the design criteria for the underlying zoning district.

**Table 166-50.a — Wetland Protection Buffers**

Wetland Protection Buffer Type	Adjacent Wetland Feature	Minimum Required Wetland Protection <u>qe</u> <u>→</u> Buffer
Type 1	Isolated Wetlands	15-ft

Type 2	Creeks, channels, ditches, canals or other waterways which are not designated as preservation land use areas and which are connected with waters of the state as defined in the Florida Administrative Code	15-ft outside the top of bank or contiguous wetlands, whichever is greater
Type 3	County approved retention ponds adjacent to wetlands which provide the intent as described in purpose of this section.	15-ft from edge of wetlands to top of bank of retention pond.
Type 4	All other wetlands	50-ft without enhanced buffer; 25-ft with enhanced buffer
General Notes:		
<p>1. <del>Isolated wetland means any wetland as defined in this article which is not contiguous with the waters of the state as defined in the Florida Administrative Code.</del></p> <p>2. Enhanced buffers include appropriate wetland plantings <del>that</del> replicates the natural Florida environment and other physical improvements that increase protection of the wetland from upland activities such as mowing and other lawn maintenance activities.</p>		

(6) Alternative wetland protection: Buffer options and restrictions.

- a. Buffers may be reduced to 15 feet in width for portions along a wetland, so long as additional widths are provided in other areas to result in an overall buffer width average that complies with Table 166.50.a.

- b. Wetland buffers may not be reduced through these options on properties in the R-A, R-E, and/or R-R districts with active livestock activities adjacent to wetlands.

(7) Activities prohibited within ~~upland-wetland~~ buffers. In general, the following activities within a wetland buffer shall be prohibited:

- a. Placement of a structure, road, utilities, ~~and or~~ retention pond.
- b. Planting of exotic vegetation.
- c. Removal of native vegetation, to include mowing or trimming, except as ~~might be required for health, welfare and safety purposes as determined by the county authorized under a habitat management permit issued pursuant to this article.~~
- d. Fill with dirt, topsoil, sand, gravel or other similar material.
- e. Excavation.
- f. Maintaining livestock.
- g. Storage of equipment, supplies, materials, machinery, portable buildings, etc.
- h. Application of herbicides, pesticides, fertilizers, or chemical agents injurious to vegetation.

(b) *Wetland vegetation.* Mangroves and other wetlands, regardless of size, are recognized to be of special ecological value. No wetland vegetation shall be removed, trimmed, pruned, chemically treated, filled upon or altered without a permit or exemption. ~~Guidelines for trimming or pruning of mangroves shall be made available from the county. Mangrove~~

trimming and alteration is regulated through delegated authority from the State of Florida pursuant to Chapter 58, Article XVI. - MANGROVE TRIMMING AND PRESERVATION.

- (1) Where wetlands are approved for removal by a permit ~~which was~~ issued by Pinellas County Water and Navigation, a permit under the provisions of this ~~division article~~ pertaining to those wetlands shall not be required. However, wetlands removal not authorized by ~~a the w~~Water and ~~n~~Navigation permit, and otherwise subject to the county's jurisdiction, shall be subject to the provisions of this article, enforcement action.
- (2) Due to the vegetative characteristics of these plant communities, wetlands ~~will bear~~ exempted from the tree survey requirements. ~~h~~However, they shall be designated by name and have their ~~boundaries~~ surveyed.
- (3) Applicants must provide mitigation for all regulated wetland impacts and must demonstrate that the proposed mitigation measures are consistent with the county's intent to protect and manage fish, wildlife and hydrologic features. All required mitigation shall provide for equivalent habitat value to the wetland system impacted.

**Sec. 166-51. Reserved.**

**Sec. 166-52. Protection of ~~endangered, threatened, or imperiled~~ species ~~of special concern~~.**

Upon field review of the site plan and determination that a site contains imperiled plant or animal species ~~which are endangered, threatened or species of special concern~~, the applicant shall obtain and submit to the county ~~administrator~~ written comments and recommendations concerning the impact of the proposed use on such species from the appropriate agency, such as the Florida Fish and Wildlife Conservation Commission, the United States Fish and Wildlife Service, or the state ~~d~~Department of ~~a~~griculture and ~~e~~Consumer ~~s~~ervices. Compliance with all state and federal permit conditions must be met prior to site development.

**Sec. 166-53. Undesirable trees/plantsNuisance and Invasive Species.**

- (a) ~~Chapter 138, article X, division 3~~Sec. 138-3653 shall address undesirable trees/plantsnuisance and invasive species within the unincorporated areas within the county.
- (b) The protection standards in this chapter shall not apply to undesirable trees/plantsnuisance and invasive species as defined by this Code. However, a no-cost permit may be required to remove said species.

**Sec. 166-54. Removal of trees-vegetation from public right-of-way.**

No trees-vegetation shall be removed from a public right-of-way under the management of the county without a valid permit issued in accordance with Sec. 154-232 or the county administrator's authorization. Compensation for trees authorized for removal from a right-of-way may be required and will be calculated using Council of Tree and Landscape Appraisers (CTLA) Guide for Plant Appraisal or other professionally accepted methods.

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**Sec. 166-55. Reserved.**

**Sec. 166-56. Vegetation installation and maintenance.**

- (a) All vegetation planted in conformance with this article shall be installed in acceptance with good planting procedures as prescribed by the American Society of Landscape Architects, or other professional horticultural and arboricultural association.
- (b) Landscape ~~or replant~~ trees and other required plant material shall be maintained in healthy growing condition or shall be promptly replaced within 30 days.
- (c) Inappropriate pruning or maintenance practices of required plant materials that result in stunted, abnormal, or other unreasonable deviation from their normal healthy growth shall be considered as the destruction of these materials and replacement may be required as described in this section.

**Sec. 166-57. Tree bank fund.**

- (a) ~~Creation; purpose.~~ There is hereby created the county tree bank fund for the purpose of:
  - (1) ~~Acquiring, protecting, and maintaining native vegetative communities in the county;~~
  - (2) ~~Acquiring, protecting, and maintaining land for the placement of trees acquired pursuant to this section;~~
  - (3) ~~Purchasing vegetation for placement on public properties in the county and their maintenance; and~~
  - (4) ~~Mitigating the impact of any damage from violations of this article.~~
- (b) ~~Maintenance of fund.~~ Moneys of the tree bank fund may be used as a matching fund contribution towards the acquisition of native vegetative communities in the county in association with other public land acquisition programs and/or the management of environmental lands. Such tree bank fund shall be kept, maintained and identified by the board of county commissioners solely for the purposes set forth in this section.
- (c) ~~Source of moneys.~~ The tree bank fund shall consist of the following moneys:
  - (1) ~~All moneys collected by the county administrator pursuant to the provisions of this article which are obtained through civil action and consent agreements.~~
  - (2) ~~All moneys offered to and accepted by the county for the tree bank fund in the form of federal, state, or other governmental grants, allocations or appropriations, as well as foundation or private grants and donations.~~
  - (3) ~~Contributions in lieu of, or in conjunction with, the replacement planting provisions of section 166-84. The county administrator shall collect funds designated for the tree bank fund when the replacement planting requirements of section 166-84 cannot be met.~~

(4) ~~All county revenue generated from tree thinning or other ecologically beneficial tree removal activities occurring within Pinellas County.~~

(d) *Interest.* Unless otherwise restricted by the terms and conditions of a particular grant, gift, appropriation or allocation, all interest earned by the investment of all moneys in the tree bank fund shall accrue to the fund and shall be disbursed for any project authorized consistent with this section. Tree bank fund moneys shall be invested only in accordance with the laws pertaining to the investment of county funds.

(e) *Effect on permitting.* Decisions to grant or deny permits provided for by this article shall be made without consideration of the existence of the tree bank fund or offers of donations of moneys thereto.

**Secs. 166-587—166-80. Reserved.**

*DIVISION 2. PERMITS*

**Sec. 166-81. General permit/application provisions.**

(a) A permit is required for the following activities on developed or undeveloped property:

(1) ~~To remove or relocate a protected tree as defined in chapter 138, article X, division 3 and specifically section 138-3654;~~

(21) ~~To remove vegetation in an upland buffer or upland preservation area~~Habitat management activities including but not limited to alteration of vegetation, grading, herbicide application, or other habitat restoration and management activities;

(23) ~~To perform pPreliminary~~ land clearing or grubbing;

(4) ~~To remove, trim or prune wetlands, specimen tree(s);~~

(35) ~~To remove/alter~~Removal or alteration of specimen tree stand(s) ~~or historic tree(s);~~

(46) ~~To conduct aA~~Any activity which may have an adverse impact detrimental effect on ~~protected vegetation~~wetlands or native vegetative communities as defined under the provisions of in this article~~;~~ or

(7) ~~To trim or prune mangroves as required with section 58-605.~~

(b) Permits and applications shall be reviewed and processed pursuant to ~~e~~Chapter 138, ~~a~~Article II, ~~d~~Division 3.

(c) Permits for removal of trees shall be reviewed and processed pursuant to Chapter 58, Article XIX.

**Sec. 166-82. Specific permit application provisions.**

(a) *Required landscaping and trees.* Chapter 138, ~~a~~Article X, ~~d~~Division 3 establishes the required landscaping ~~and tree~~ standards for site development and property maintenance~~;~~ ~~t~~The provisions of ~~e~~Chapter 138, ~~a~~Article X, ~~d~~Division 3 shall apply in addition to this article.

(b) *Preliminary land clearing and grubbing.* Upon application, review, and issuance of a permit, preliminary land clearing and grubbing shall be permitted within designated road rights-of-way, drainage and other utility areas as depicted on a site plan, ~~as required~~ pursuant to ~~e~~Chapter 138, ~~a~~Article II, ~~d~~Division 5. The decision-making authority must have no objection to the issuance of such permits and must require no revisions or alterations to the site plan which would change the size or location of buildings, parking, utility lines, topographic elevations, and other relevant elements which could result in substantial changes to the remaining protected vegetation.

(c) *Wetland vegetation.* ~~all mangroves and other wetlands, regardless of size, are recognized to be of special ecological value. No wetland vegetation shall be removed, trimmed, pruned, chemically treated, filled upon or altered without a permit or exemption. Guidelines for trimming or pruning of mangroves shall be available from the county.~~

(1) ~~Where wetlands are approved for removal by a permit which was issued by the county water and navigation control authority, a permit under the provisions of this article pertaining to those wetlands shall not be required. However, wetlands removal not authorized by the water and navigation control authority permit, and otherwise subject to the county's jurisdiction, shall be subject to enforcement action under the provisions of this article.~~

(2) ~~Due to the vegetative characteristics of these plant communities, wetlands will be exempted from the tree survey requirements, except that they shall be designated by name and their boundary surveyed.~~

(3) ~~Applicants must provide compensation for all regulated wetland impacts and must demonstrate that the proposed compensation measures are consistent with the county's intent to protect and manage fish, wildlife and hydrologic features. All compensation required shall provide for equivalent habitat value to the wetland system destroyed.~~

(d) *Historic/specimen trees.* ~~It shall be unlawful to remove, trim, prune or alter a specimen tree, specimen tree stand or historic tree (as defined in this article) except as allowed in chapter 138, article X, division 3.~~

### Sec. 166-83. Applications.

(a) *Procedure.* Applications for permits may be reviewed as a Type 1 review pursuant to ~~e~~Chapter 138, ~~a~~Article II. An application for a permit under this article shall be made by filing a ~~written~~ permit application with the county and paying such fee as is established by the ~~b~~Board of ~~e~~County ~~e~~Commissioners as necessary to cover the costs of processing the application.

(b) The following information may be required as part of the permit application in order to conduct a thorough review and finding:

(1) The shape and dimensions of the lot or parcel, together with the existing and proposed locations of structures and improvements, if any.

(2) ~~If existing trees are to be transplanted, the proposed new location for such trees, together with a statement as to how such trees are to be protected during land clearing and construction.~~

- (3) A statement and drawing showing how vegetation not proposed for removal or relocation is to be protected during land clearing and construction, i.e., a diagram and notation of a protective barrier as defined in this article.
- (4) Locations and dimensions of all setbacks and easements required by ~~e~~Chapter 138.
- (5) A topographical survey sealed by a registered engineer or surveyor indicating grade changes proposed for the site, except when the grade changes are limited to beneath the floor area of the dwelling unit.
- (6) The location of all ~~trees, historic trees, specimen trees, specimen tree stands, wetlands, native vegetative communities, and buffers or upland preservation areas~~ which are on or within ten feet of the site being developed. Vegetation proposed to remain, to be transplanted, or to be removed shall be identified. Areas designated as preservation on the comprehensive land use plan which are within 50 feet of the site must also be shown where applicable.
- (7) All proposed ~~replants of trees or other vegetation~~ landscaping and replacement vegetation, by species and size, along with the type of ground cover to be installed.

(c) *Additional application requirements for site plans.* Development projects and land use activity that require a site plan as determined by ~~e~~Chapter 138, ~~a~~Article II, ~~d~~Division 5, shall provide the plan sheets as defined by said division. This shall include a tabulation of existing protected vegetation, proposed vegetation to be impacted, and proposed replacement vegetation.

(d) *Application information waiver.* In the event that there ~~are is~~ no ~~trees or vegetation protected vegetation~~ located on or within ten feet, ~~or~~ of preservation areas within 50 feet of the site to be developed which are required to be protected under the provisions of this article, the applicant shall so state in his application for a permit.

(e) *Permit/application evaluation criteria.* The county administrator or designee shall consider the potential for significant adverse impacts in the following areas on the urban and natural environment in granting a permit and meeting the other provisions of this article:

- (1) *Groundwater and surface water stabilization:* Whether the removal of ~~trees or other~~ protected vegetation will substantially alter the water table adversely or water assimilation and transpiration by vegetation or the interception of solar radiation as it affects the evaporation potential of associated soils and bodies of water.
- (2) *Water quality and/or aquifer recharge:* Whether the removal of ~~trees or other~~ protected vegetation will lessen the ability for the natural assimilation of nutrients, chemical pollutants, heavy metals, silt and other noxious substances from groundwaters and surface waters.
- (3) *Ecological impacts:* Whether the removal of ~~trees or other~~ protected vegetation will have an adverse impact upon existing biological and ecological systems, microclimatic conditions which directly affect these systems, or whether such removals will create conditions which may adversely affect the interrelationships of ecological systems.
- (4) *Noise pollution:* Whether the removal of ~~trees or other~~ protected vegetation will significantly increase ambient noise levels to the degree that a nuisance is anticipated to occur or that a violation of ~~e~~Chapter 58, ~~a~~Article XII is anticipated to occur.

- (5) *Air movement:* Whether the removal of ~~trees or other~~ protected vegetation will significantly reduce the ability of the remaining vegetation to reduce wind velocities to the degree that a nuisance is anticipated to occur.
- (6) *Air quality:* Whether the removal of ~~trees or other~~ protected vegetation will significantly affect the natural cleaning of the atmosphere by vegetation through particulate matter interception or the release of oxygen to the atmosphere as a byproduct of photosynthesis.
- (7) *Wildlife habitat:* Whether the removal of ~~trees or other~~ protected vegetation will significantly reduce available habitat for wildlife existence and reproduction, or result in the emigration of wildlife from adjacent or associated ecosystems.
- (8) *Aesthetic degradation:* Whether the removal of ~~trees or other~~ protected vegetation will have an adverse effect on property values in the neighborhood where the applicant's property is located and other existing vegetation in the vicinity.
- (9) *~~Endangered, threatened and species of special concern~~ Imperiled species:* Whether the removal of ~~trees or other~~ protected vegetation will significantly affect endangered, threatened, or species of special concern when reasonable scientific judgment indicates that the ~~trees or~~ vegetation provides a function including but not limited to nesting, reproduction, critical food source, critical habitat or cover for such species or whether the vegetation itself is endangered, threatened, or a species of special concern.
- (10) *Soil stabilization:* Whether the removal of ~~trees or other~~ protected vegetation will result in uncontrollable erosion of soils into surface waters, or adjacent properties.

(f) *Exceptions.* The above evaluation criteria may be waived by the county administrator if one or more of the following conditions exist:

- (1) The vegetation is located in an area where a structure or improvements may be placed according to an approved site plan and to preserve the vegetation would unreasonably restrict the economic enjoyment of the property or the site is recognized as a redevelopment or infill site;
- (2) The vegetation is diseased, injured, too close to existing or proposed structures, interferes with existing utility service, creates unsafe vision clearance, or conflicts with other ordinances or regulations; or
- (3) It is in the welfare of the general public or citizens that the vegetation be removed for a reasons other than set forth above.

(g) *Permit/application denial.* The county administrator or designee, upon a determination that an application for a permit under this article is to be denied, shall state the basis for such denial specifically and shall notify the applicant of the criteria outlined in subsections (e) and (f) of this section upon which such denial is predicated.

#### **Sec. 166-84. Permit conditions.**

(a) *Conditions.* The decision making authority may assign special conditions to any approved permits based on the findings of the evaluation criteria in section 166-83. ~~The following standards may apply.~~

(b) *Inspections.* A pre-construction inspection may be required to ensure protective barriers are properly installed around all protected vegetation and erosion control best management practices are installed where necessary to prevent pollution of the Municipal Separate Storm Sewer System (MS4). A final inspection may be required to ensure landscaping has been installed according to the approved plans and this article prior to release of the certificate of occupancy.

(b) *Special design criteria.* As a condition of granting a permit, the applicant may be required to provide use special construction techniques and designs to increase oxygen exchange and water and nutrient availability to a tree protected vegetation such as but not limited to tree wells, turf or paving block, aeration systems and stem walls.

(e) *Tree donation.* Where a tree is to be removed under the provisions of this article, the county shall have the option, with the owner's permission, of relocating the tree at the county's expense and at no liability to the owner to county owned property for replanting, either for permanent utilization at a new location or for future use at other county property. Such relocation shall be accomplished in accordance with a schedule agreed upon by all parties. If the county does not elect to relocate any such tree, it may give to any city within the county the right to acquire any such tree at the city's expense and at no liability to the owner for relocation within the city's incorporated area for public use.

(d) *Erosion control.* Silt barriers, hay bales, or similar erosion control barriers will be required in any area where erosion or siltation may cause adversely impact protected vegetation to be damaged.

### **Sec. 166-85. Reserved.**

### **Sec. 166-86. Expiration.**

Permits under this article shall be declared expired if commencement of work so permitted is not started within 90 days. In no case will the permit remain valid unless construction authorized activity is continuous and uninterrupted for no more than 60 days. Permits not used within this period will expire, and future work will require a new application and permit. Permit extensions may be granted at the county's discretion based on wildlife activity, extreme weather, natural disaster, declared emergencies or similar circumstances.

### **Sec. 166-87. Revocation.**

(a) The county administrator or designee may revoke any permit issued pursuant to this article for fraud, misrepresentation or violation of conditions imposed pursuant to the permit, or other good cause. In the event the county administrator chooses to revoke a permit, written notice of the intent of the county administrator to revoke such permit shall be provided to the applicant, setting forth the specific reasons for the revocation. The applicant shall have the right to appear before the county administrator at a time and date specified in such notice to show cause why the permit issued to the applicant should not be revoked.

(b) If the county administrator or designee determines to revoke a permit issued pursuant to this article, after the notice procedure as provided in subsection (a) of this section, the applicant shall immediately cease all exterior work on the site. The applicant shall have the right to

appear before the board of county commissioners, in accordance with section 166-40, to show cause why the permit issued to the applicant should be reinstated.

**Sec. 166-88. Cease and desist orders.**

The county administrator or designee may issue a cease and desist order for any permit issued pursuant to this article for fraud, misrepresentation, or violation of conditions imposed pursuant to the permit, or other good cause, or for any site where work has commenced and a permit has not been obtained but is required pursuant to this article. Any person receiving such an order for cessation of operations shall immediately comply with the requirements thereof. It shall be a violation of this article for any person to fail to or refuse to comply with a cease and desist order issued and served under the provisions of this section.

**Secs. 166-89—166-95. Reserved.**

**SECTION 3. Severability.** If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such holding will not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

**SECTION 4. Inclusion in Code.** The provisions of this Ordinance will be included and incorporated in the Pinellas County Code, as an amendment thereto, and will be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

**SECTION 5. Filing of Ordinance; Effective Date.** Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance will be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance will become effective upon filing of the ordinance with the Department of State.

PCAO 539522