

**ORDINANCE NO. 945**

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, AMENDING CHAPTER 15. LANDSCAPING AND VEGETATION MANAGEMENT. OF THE CODE OF ORDINANCES OF THE VILLAGE OF ROYAL PALM BEACH AT ARTICLE I. IN GENERAL. IN ORDER TO MODIFY DEFINITIONS RELATING TO TREE PRESERVATION; TO CLARIFY THE PROPERTIES THAT ARE REQUIRED TO COMPLY WITH THE MINIMUM LANDSCAPING REQUIREMENTS AND DESIGN STANDARDS CONTAINED IN THE CHAPTER; TO SPECIFY THAT VIOLATIONS OF THIS CHAPTER MAY SUBJECT THE VIOLATOR TO CERTAIN NON-EXCLUSIVE REMEDIES; AND TO CLARIFY THAT PROHIBITED AND/OR RESTRICTED PLANT SPECIES MAY NOT BE PLANTED, INSTALLED OR MAINTAINED IN THE VILLAGE EXCEPT AS PERMITTED IN THIS CHAPTER; FURTHER AMENDING ARTICLE II. ADMINISTRATION; WAIVERS; AND GENERAL STANDARDS. TO PROVIDE THAT THE PLANNING AND ZONING COMMISSION SHALL REVIEW AND MAKE RECOMMENDATIONS TO THE VILLAGE COUNCIL REGARDING APPLICATIONS FOR LANDSCAPE WAIVERS; TO FURTHER OUTLINE THE NOTICE REQUIREMENTS FOR PUBLIC HEARINGS ON REQUESTS FOR LANDSCAPE WAIVERS; AND TO OUTLINE THE REQUIREMENTS FOR INSTALLATION OF VEGETATION WITHIN VILLAGE RIGHTS-OF-WAY; FURTHER AMENDING ARTICLE III. VEGETATION MANAGEMENT. TO CLARIFY ABATEMENT PROCEDURES OF THE VILLAGE; FURTHER AMENDING ARTICLE IV. VEGETATION PROTECTION AND PRESERVATION. TO MODIFY VEGETATION REMOVAL PERMIT REQUIREMENTS; AND TO PROVIDE FOR NEW TREE PRESERVATION REQUIREMENTS; FURTHER AMENDING ARTICLE V. DESIGN STANDARDS. TO CLARIFY WHICH PROPERTIES ARE REQUIRED TO SUBMIT LANDSCAPE PLANS FOR REVIEW, AND TO CLARIFY THAT MINIMUM LANDSCAPING REQUIREMENTS FOR SINGLE-FAMILY LOTS SHALL BE BASED ON NET LOT AREA; FURTHER AMENDING MULTIPLE CODE SECTIONS TO CLARIFY THE DUTIES OF BOTH THE COMMUNITY DEVELOPMENT DIRECTOR AND PLANNING AND ZONING DIRECTOR WITH RESPECT TO ENFORCING SAID CHAPTER; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUB-SECTION OF CHAPTER 15. LANDSCAPING AND VEGETATION MANAGEMENT. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Village Council of the Village of Royal Palm Beach adopted a strategic plan for the Village in April of 2018, which outlined a need to update certain provisions within the Village's landscaping code; and

WHEREAS, the Village Council desires to update Chapter 15. Landscaping and Vegetation Management. of the Village Code of Ordinances to accomplish the strategic plan items; and

WHEREAS, specifically, the Village Council desires to clarify the properties that are required to comply with the minimum landscaping requirements and design standards contained in the chapter, and further to clarify those properties that have vested rights under prior permits or development approvals; and

WHEREAS, the Village Council also desires to clarify that the Village's code enforcement, legal and other administrative remedies for violations of Chapter 15 are not mutually exclusive, but may be utilized together to ensure compliance for all properties within the Village; and

WHEREAS, the Village Council also desires to impose new penalties for hatracking trees, abusing trees, or removing trees and other vegetation without a vegetation removal permit; and

WHEREAS, the Village Council also desires to provide for new tree preservation requirements in order to protect the tree canopy and specimen trees within the Village; and

WHEREAS, the Village Council also desires to authorize the Planning and Zoning Commission to review and make recommendations to the Village Council on landscape waiver applications; and to further outline notice requirements for public hearings on landscape waiver applications; and

WHEREAS, the Village Council also desires to clarify the responsibilities of the community development department and the planning and zoning department with respect to enforcing Chapter 15 of the Village Code of Ordinances; and

WHEREAS, the Village of Royal Palm Beach has held all required public hearings and has provided public notice in accordance with applicable State statutes and Village ordinances; and

WHEREAS, the Village Council of the Village of Royal Palm Beach has determined that the proposed revisions to Chapter 15 of the Village Code of Ordinances are in the best interests of the general welfare of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, THAT:

**Section 1:** Chapter 15. Landscaping and Vegetation Management. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article I. In General. at Sec. 15-2. Definitions. in order to add definitions for “Dead tree,” “Deteriorated tree,” “Diseased tree,” “Hatracking,” “Mitigation,” “Pruning/trimming,” “Replacement tree,” “Specimen tree,” “Tree abuse,” and “Tree bank”; in order to revise the definitions of “Caliper/diameter at breast height (DBH),” “Department,” “Director,” “Hedge,” “Trees, shade”, and “Vegetation, protected”; and in order to insert the new definitions alphabetically into the existing list of definitions; at Sec. 15-3. Applicability of chapter. to clarify the properties that are required to comply with the minimum landscaping requirements and design standards contained in the chapter; at Sec. 15-4. Enforcement, violations, and penalties., Sec. 15-5. Persons liable for prosecution., Sec. 15-6. Civil remedies., and Sec. 15-7. Administrative remedies. to specify that violations of this chapter may subject the violator to certain non-exclusive remedies; at Sec. 15-9. Restricted species list. to provide that the planning and zoning department determines whether restricted plant species may be utilized in selected areas, and to clarify requirements for restricted plant species; and at Sec. 15-10. Removal; distribution. to clarify that prohibited and/or restricted plant species may not be planted, installed or maintained in the village except as permitted in this chapter; providing that Article I. In General. shall hereafter read as follows:

**Sec. 15-1. - Declaration of legislative intent.**  
[Shall remain the same as previously adopted.]

**Sec. 15-2. - Definitions.**

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Caliper/diameter at breast height (DBH):* Diameter in inches of a tree trunk measured at four and one-half (4½) feet above the existing grade. If an existing tree forks at or higher than four and one-half feet above the existing grade, then each fork shall be considered a separate tree.

*Department:* ~~Village planning, zoning, and building department~~ Village community development department or Village planning and zoning department.

*Dead tree:* A tree which has lost its ability to absorb nutrients and has ceased producing live foliage or green wood during its normal growing season.

Deteriorated tree: A tree which is degenerated or damaged to the point where the death of the tree is imminent or to the point where the tree poses a significant hazard to life or property.

Director: The head of the community development department or the planning and zoning department and/or a designated representative.

Diseased tree: A tree which is degenerated or damaged by a biological pathogen or pest to the point where the death of the tree is imminent or to the point where the tree poses a significant hazard to life or property.

Hatracking. The maintenance and pruning of trees where a top of a tree is flat-cut severing the leader or leaders, or by making internodal cuts to lateral limbs or pruning a tree by stubbing off mature wood larger than three (3) inches in diameter. This method of pruning is strictly prohibited except for treatment of diseased trees or other necessary pruning to maintain or restore the health and viability of a tree by a certified arborist or landscape architect, or unless the trees are on the prohibited vegetation list. Documentation from an arborist or landscape architect detailing the treatment of a diseased tree or necessary pruning shall be required in order for such treatment or pruning to not constitute hatracking.

Hedge: A landscape barrier consisting of a continuous, dense planting of shrubs characterized by multiple stems and branches continuous from the base that form a compact visually opaque living barrier.

Mitigation: Actions including, but not limited to, planting of replacement tree(s) and/or contribution to a tree bank, required to be taken by a person to offset environmental impacts of permitted activities.

Pruning/trimming: The selective cutting of tree/plant parts to encourage new growth or better flowering; to remove old stems or deadwood; or to shape trees according the ANSI A300 Standards, as amended from time to time.

Replacement tree: A tree of Florida grade #1 or better quality, with a caliper and minimum height as determined by section 15-79 for replacement trees.

Specimen tree: Species listed in section 15-78.

Tree abuse. Tree abuse is strictly prohibited except for treatment of diseased trees or other necessary pruning to maintain or restore the health and viability of a tree by a certified arborist or landscape architect, or unless the trees are on the prohibited vegetation list. Documentation from an arborist or landscape architect detailing the treatment of a diseased tree or necessary pruning shall be required in order for such treatment or pruning to not constitute tree abuse. Tree abuse is deemed to be irreparable and irreversible in nature, and is defined to include:

- (1) Damage inflicted upon any part of a tree, including the root system, by machinery, mechanical attachment, storage of materials, soil compaction, excavation, vehicle accidents, chemical application or change to the natural grade;

- (2) Damage inflicted to or cutting upon a tree which permits disease, infection or pest infestation;
- (3) Cutting upon any tree which causes it to go into shock;
- (4) Hatracking;
- (5) Girdling (removal of a strip of bark from around the entire circumference of either a branch or trunk);
- (6) Bark removal by more than one-third (1/3) of the tree diameter;
- (7) Use of climbing spikes or nails directly into the trunk, or improper staking techniques resulting in damage to the tree;
- (8) Over-lifting a tree or the excessive thinning of branches.
- (9) Neglect of care and likely risk of loss due to such neglect of any specimen tree, arising from overgrowth by competing, invasive vegetation such as, but not limited to, overgrowth by vines;
- (10) Neglect of care and likely risk of loss due to such neglect of any specimen tree arising from failure to treat disease, infection or pest infestation;
- (11) Excessive root cutting;
- (12) Improperly pruning, cutting, hatracking, or shaping a tree to the extent that more than twenty-five percent (25%) of the canopy is removed;
- (13) Removal of main lateral branches leaving the trunk of the tree in a stub appearance;
- (14) Pruning of live palm fronds where the tip of the frond is situated entirely above the horizontal plane; the horizontal plane shall be measured from where the frond connects to the trunk; and
- (15) Failing to provide vegetation protection as required by section 15-73.

Visual indications of tree abuse include, but are not limited to, stub cuts and/or ripping or tearing of bark below fresh cuts.

*Tree bank:* A village account to be expended, utilized and disbursed for the purchase and installation of trees on any village-owned land, or pursuant to a neighborhood reforestation plan as approved by the village council. Such monies also may be used for ancillary costs associated with the above-mentioned tree purchase and installation including but not limited to, landscaping around trees, sprinkler systems, labor, consultant services and such other services or materials necessary and proper for the preservation, maintenance, relocation or restoration of tree ecosystems. These monies also may be utilized to purchase land intended for conservation, tree preservation or public open space.

*Trees, shade (canopy):* Any living, self-supporting woody or fibrous plant of species acclimated to growing in the areas where they are proposed which mature to a height and spread of at least fifteen (15) feet with at least five (5) feet of clear wood and providing canopy for shade for vehicular areas, building, sidewalks, pedestrian paths, and landscape areas.

*Vegetation, protected:* All vegetation other than prohibited plant species set forth at section 15-8. or vegetation specifically excluded from protection under the exemption provisions of this chapter set forth at section ~~15-78~~ 15-76.

**[All other definitions shall remain the same as previously adopted.]**

**Sec. 15-3. - Applicability of chapter.**

- (a) Applicability. This chapter shall apply to all new property development, expansion of existing development, renovation of existing development and to currently existing developed properties unless specifically exempted herein. No department shall issue a permit provided for herein in violation of the chapter. Compliance with this chapter will be confirmed via permit application/landscape plan. The standards and requirements contained in this chapter are continuing and do not expire upon issuance of the final certificate of occupancy.
- ~~(b) Effective date and previously approved developments. Developments that received village council approval prior to November 15, 2001, or for which building permits were accepted by the village prior to November 15, 2001, shall be considered nonconforming and are not subject to the minimum landscaping requirements and design standards of this chapter except as set forth in subsection (c) below, or except to the extent that the village council approval or building permit subsequently expired or otherwise became void.~~
- ~~(b c) Nonconforming sites. Existing nonconforming property shall not be permitted to increase the degree of nonconformity as it pertains to this chapter. All nonconforming properties intending to renovate or upgrade which shall include buildings, structures, and vehicle use areas shall comply with the minimum landscaping and design standards required by the provisions of this chapter if the following repairs, alterations, expansions, renovations, reconstructions, improvements, enhancements or upgrades to buildings, structures, vehicle use areas, or other portions of a property (site) occur or are proposed to occur: -The property to the extent of its alteration or expansion, as allowable, shall utilize the following thresholds:~~
- ~~(1) Structural additions in excess of ten (10) percent of the total gross floor area of all existing buildings on the property; or~~
  - ~~(2) Increase or decrease in the total square footage of any nonresidential building, structure, vehicle use area by 20 percent or more, or the addition of any residential building, structure or vehicle use area that exceeds 250 square feet in size (e.g., residential sheds, driveway expansions, and swimming pools); or~~
  - ~~(3) Substantial improvement of the property to include any combination of repairs, reconstruction, alteration, or improvements to a structure or property (site), in which the cumulative costs equal or exceed twenty (20) percent of the current assessed value of the structure or property (site) as determined by the Palm Beach County property appraiser or building permit estimates of value; or~~

- (4) The destruction of a building or buildings on the property (site) to an extent of more than fifty (50) percent of the building or buildings' assessed value at the time of destruction, as determined by the Palm Beach County property appraiser; or
- (5) The replacing or adding of any trees or plant materials to a nonconforming landscape shall be made in accordance with the minimum landscaping requirements of this chapter. The replacement of trees or plant materials shall first comply with all village requirements prior to such replacement taking place, which may include, but not be limited to, obtaining a vegetation removal permit or site plan modification; or
- (6) Trees or plant materials removed from a nonconforming landscape shall be replaced in accordance with Section 15-79 or the minimum landscaping requirements of this chapter, as applicable. The removal and replacement of trees or plant materials shall first comply with all village requirements prior to such removal and replacement taking place, which may include, but not be limited to, obtaining a vegetation removal permit or site plan modification.
- (d) Minimum property maintenance standards. Nonconforming properties, landscape, parking and vehicular use areas are not exempt from the minimum property maintenance standards contained in this chapter.
- (3)
- (e) Nonconforming nonresidential vehicular-use areas. Existing nonresidential vehicular-use areas (VUA) which do not comply with this section shall provide a buffer at least fifteen (15) feet wide for planting of landscaping materials rather than minimum width landscape buffer requirements indicated in section 15-131. All other requirements of such sections shall be applicable. In the event that an existing VUA is unable to comply with these reduced requirements or any other requirements of this chapter without reducing the number of required or existing parking spaces, such VUA's shall comply with the maximum extent possible without the loss of parking spaces. The planning and zoning director or designee may determine that there are needed waivers to the requirements of this chapter and request the submittal of an application for same pursuant to section ~~15-40~~ 15-37. No exceptions may be granted in any manner for the installation of an irrigation system as required by this chapter;  
 or

#### **Sec. 15-4. - Enforcement, violations, and penalties.**

- (a) Violations of this chapter shall be subject to the village code enforcement procedures adopted pursuant to chapter 162, Florida Statutes, including notice, hearing, corrective actions and penalty provisions therein. A violation of this chapter may be subject to a fine as authorized under chapter 162, Florida Statutes. ~~of up to two hundred fifty dollars (\$250.00) a day for each violation or five hundred dollars~~

~~(\$500.00) a day for each repeat violation.~~ Additionally, violations may be subject to abatement procedures as set forth in detail at article III of this chapter and/or may be subject to any other means of enforcement allowed by law.

(b) Violations relating to removal of vegetation without a vegetation removal permit, violations relating to hatracking and tree abuse, and violations relating to failure to preserve protected landscaping shall also subject the violator to the following penalties:

(1) *Removal of vegetation without a vegetation removal permit.* The removal of each tree in violation of this chapter shall constitute a separate violation. Violators that remove vegetation without a removal permit shall be subject to an irreparable irreversible fine under chapter 162, Florida Statutes, for the removal and further shall be ordered to replace such vegetation if the vegetation is required pursuant to sections 15-3 or 15-130, a site plan approval, permit or other development order of the Village. Replacement of required vegetation, other than required trees, shall comply with the minimum landscaping requirements of this chapter. Required trees shall be replaced in accordance with the tree replacement schedule contained at section 15-79. Failure to replace such vegetation, or otherwise comply with section 15-79, within the time stated by the code enforcement special magistrate may result in a daily fine being imposed on the property on which the violation exists in accordance with chapter 162, Florida Statutes;

(2) *Removal of specimen trees without a vegetation removal permit.* The removal of each specimen tree in violation of this chapter shall constitute a separate violation. Violators shall be subject to an irreparable irreversible fine under chapter 162, Florida Statutes, for the removal and further shall be ordered to replace such specimen trees in accordance with the tree replacement schedule contained at section 15-79. Failure to replace such vegetation, or otherwise comply with section 15-79, within the time stated by the code enforcement special magistrate may result in a daily fine being imposed on the property on which the violation exists in accordance with chapter 162, Florida Statutes;

(3) *Hatracking or tree abuse.* The hatracking or tree abuse of each tree in violation of this chapter shall constitute a separate violation.

a. *Fine and remediation.* Hatracking or tree abuse as defined by this chapter shall subject violators to an irreparable irreversible fine under chapter 162, Florida Statutes. Hatracking or tree abuse also may subject violators to rehabilitation or remediation requirements such as proper pruning in order to improve the health and/or long-term viability of a tree. Failure to comply with such rehabilitation or remediation requirements within the time stated by the code enforcement special magistrate may result in a daily fine being imposed on the property on which the violation exists in accordance with chapter 162, Florida Statutes.

b. *Removal.* Hatracked or abused trees are required to be removed under the following conditions:

1. The tree is deteriorated, diseased, dead, or has been destroyed or so severely damaged that it constitutes a peril to life or property; and
2. The tree cannot be rehabilitated or made viable by proper pruning or other remedial action. The special magistrate may order a remediation plan with specific timeframes in order to determine whether proper pruning or other remedial action may improve the health and form of affected trees. If an affected tree is not rehabilitated within the time ordered, the special magistrate may order the affected tree to be removed.

Violators may provide the special magistrate with documentation from an arborist or landscape architect demonstrating that the hatracked or abused tree does not meet the standards for removal as outlined above. In such event, the arborist or landscape architect shall also provide the special magistrate with a remediation plan containing specific standards and timeframes for the affected tree to be rehabilitated or made viable, which the special magistrate may utilize in formulating his or her order.

c. *Replacement.* Hatracked or abused trees that are removed pursuant to subsection (3)b. above, are required to be replaced under the following conditions:

1. The tree is a specimen tree;
2. The tree is required landscaping pursuant to sections 15-3 or 15-130, a site plan approval, permit or other development order; or
3. The tree is located within a preservation area pursuant to section 15-73.

Replacements of specimen trees or required trees shall be made in accordance with the tree replacement schedule contained in section 15-79. Failure to remove and/or replace such vegetation, or otherwise comply with section 15-79, as applicable, within the time stated by the code enforcement special magistrate may result in a daily fine being imposed on the property on which the violation exists in accordance with chapter 162, Florida Statutes.

~~(b) For any and every violation of the provisions of this chapter, and for each and every day that such violation continues, the violation shall be punishable as follows:~~

- ~~(1) If a violation continues past the date set for compliance in the notice of violation, the village manager or his designee shall immediately notify the code enforcement board or special master and request a hearing pursuant to Chapter 162, Florida Statutes. Written notice as provided for in Chapter 162, Florida Statutes, shall be given to the violator, specifying the violation, and the date, time and place of the hearing.~~
- ~~(2) At the conclusion of the hearing, the code enforcement board or special master may impose a fine not to exceed two hundred fifty dollars (\$250.00) per day for each day the violation continues past the date set for compliance or five hundred dollars (\$500.00) for repeat violations.~~
- ~~(3) The removal of each tree, in violation of this article, shall constitute an additional and separate violation. Each day a violation exists for such unlawful removal shall constitute a separate violation. Each violation is subject to a fine of five hundred dollars (\$500.00) per day, per tree.~~
- ~~(4) Failure to install landscaping according to the requirements of this chapter shall constitute a violation of the village code. Where trees are required to be planted or preserved by this chapter, failure to plant or preserve each individual tree shall be considered to be a separate violation of this article. Each day landscaping is not installed according to the requirements of this article shall constitute a separate and continuing violation of this chapter.~~
- ~~(5) Any charges for weed or vegetation removal, including aquatic vegetation, in accordance with abatement procedures set forth in Article III or any fines levied by the special master or code enforcement board, shall constitute liens against the premises, enforceable in accordance with the procedures set out in Chapter 162, Florida Statutes, and in Chapter 2, Article V of the Village Code.~~

(c) The village's code enforcement remedies available under this section are not exclusive, but may be made in conjunction with or in addition to any other legal or administrative remedies available to the village under this chapter.

**~~Sees. 15-5 — 15-7. — Reserved.~~**

**Sec. 15-5. - Persons liable for prosecution.**

Persons charged with violation of this chapter may include:

- (a) The owner, agent, lessor, lessee, contractor, or any other person using the land, building, or premises where such violation has been committed or shall exist;

- (b) Any person who knowingly commits, takes part or assists in such violation; and/or
- (c) Any person who maintains any land, building, or premises in which such violation exists.

#### **Sec. 15-6. - Civil remedies.**

In addition to the penalties and enforcement procedures available to the code enforcement board or code enforcement special magistrate, and any other administrative remedies available to the village, the village may institute any lawful civil action or proceeding to prevent, restrain, or abate the following:

- (a) The unlawful construction, erection, reconstruction, alteration, rehabilitation, expansion, maintenance, continuation, or use of any building, structure, land, property or premises not in conformance with regulations of this chapter; or
- (b) The occupancy of such building, structure, land, property, or premises; or
- (c) The illegal act, conduct, business, or use of in or about such building, structure, land, property or premises; or
- (d) Destructive land development practices such as speculative grubbing and clearcutting of lots when no bona fide development plan or vegetative management plan is approved for the site by the village; or
- (e) Each and every violation of the provisions of this chapter.

#### **Sec. 15-7. - Administrative remedies.**

In addition to the penalties and enforcement procedures available to the code enforcement board or code enforcement special magistrate, and the village's ability to pursue legal remedies, the village may pursue the following administrative remedies for any and all violations of this chapter:

- (a) *Cease and desist orders.* The community development director shall have the authority to issue cease and desist orders in the form of written official notices given to the owner of the subject building, structure, land, property or premises, and/or to his agent, lessee, tenant, contractor, or to any person using the building, structure, land, property or premises where a violation exists or has been committed.
- (b) The procedure for building permits and certificates of occupancy and use under this chapter shall be as follows:

- (1) *Issuance.* The village shall issue no building permit or certificate of occupancy for any purpose except in compliance with the provisions of this chapter and other applicable ordinances and laws, or pursuant to an order issued by a court of competent jurisdiction.
- (2) *Revocation.* The village may revoke a building permit or certificate of occupancy and use in those cases in which an administrative determination has been made that false statements or misrepresentations existed as to material fact(s) in the application or plans upon which the permit or approval was based, or in those cases in which an administrative determination has been made that a property owner, his agent, lessee, tenant, contractor or any person using the building, structure, land, property or premises has failed to comply with a cease and desist order issued by the community development director.
- (3) *Suspension.* The village may suspend a building permit or a certificate of occupancy and use where an administrative determination has been made that an error or omission, attributable to either the permit applicant or the village, existed in the issuance of the permit or certificate approval, or in those cases in which an administrative determination has been made that a property owner, his agent, lessee, tenant, contractor or any person using the building, structure, land, property or premises has failed to comply with a cease and desist order issued by the community development director. A valid permit or certificate shall be issued in place of the incorrect permit or certificate after correction of the error or omission.
- (4) *Notice and administrative appeal.* All village decisions concerning the issuance, revocation, or suspension of a building permit and certificates of occupancy shall be stated in a written official notice to the permit applicant, and the owner if different from the permit applicant. Any administrative decision may be appealed to the village council; however, such appeal must be in writing and filed with the community development department no later than thirty (30) days from the issuance of the official written notice.
- (5) *Issuance of certificates.* No certificates of occupancy will be issued unless all landscape material has been installed and is serviced by a functioning irrigation system. Temporary certificates of occupancy may be issued and appropriate substitutions of plant material or changes to the plan may be accomplished pursuant to the planning and zoning director's interpretation. Standards specified in this chapter are continuing and do not expire when a certificate of occupancy is issued.

**Sec. 15-8. - Prohibited vegetation.**

[Shall remain the same as previously adopted.]

**Sec. 15-9. - Restricted species list.**

Those trees and plant materials referenced in this section shall constitute a list of plant species which are restricted but which may be permitted for use in selected areas as determined by the planning and zoning department under certain conditions. Restricted plants may not be used to satisfy any landscaping requirements. Restricted plants shall not be planted closer than twelve feet (12') to any public property, public right of way or public easement, and hedging heights shall comply with Sections 9-5 and 9-8.

The following species of plant material are restricted:

<i>Ficus Benjamina</i>	Benjamin Fig
<i>Ficus Nitida</i>	Cuban Laurel

**Sec. 15-10. - Removal; distribution.**

Certain plants and trees listed in sections 15-8 and 15-9 as prohibited and/or restricted species may not be planted, ~~or installed~~ or maintained in the village except as permitted by this chapter; however, nothing herein shall be construed to ~~require removal of any existing vegetation except as otherwise required by this chapter,~~ nor to restrict the distribution of any plant material by nurseries, retail or wholesale plant sales, growers or distribution centers. The only restrictions and prohibitions regarding plant materials in the Village of Royal Palm Beach are those set forth in the Village Code of Ordinances or other applicable state or federal laws.

**Secs. 15-11—15-34. - Reserved.**

[Shall remain the same as previously adopted.]

**Section 2:** Chapter 15. Landscaping and Vegetation Management. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article II. Administration; Waivers; and General Standards. at Sec. 15-35. Administrator. to clarify that both the community development director and planning and zoning director are administrators of Chapter 15. as more specifically described in said chapter; at Sec. 15-36. Persons liable for prosecution., Sec. 15-37. Civil remedies., and Sec. 15-38. Administrative remedies. to repeal these sections and restate them in Article I. In General. at Secs. 15-5 through 15-7; at Sec. 15-39. Credit allowed for existing trees utilized for lot interiors and buffers. to renumber said section as Sec. 15-36. and further to provide that the planning and zoning department shall determine credits for existing trees; at Sec. 15-40. Waivers. to renumber said section as Sec. 15-37.; to further provide that the planning and zoning director and the planning and zoning commission shall review and make recommendations to the village council regarding applications for landscape waivers; and to

further outline the notice requirements for public hearings on requests for landscape waivers; at Sec. 15-41. Compliance. to renumber said section as Sec. 15-38.; and to further provide that the planning and zoning department shall inspect all landscaping and irrigation prior to the issuance of a certificate of occupancy; at Sec. 15-42. Nonconforming sites. and Sec. 15-43. Effective date and previously approved developments. in order to repeal these sections and restate them in Article I. In General. at Sec 15-3. Applicability of chapter.; at Sec. 15-44. Performance surety. to renumber said section as Sec. 15-39. and further to provide that the community development department may issue a certificate of occupancy or use upon receipt of property surety for installation of required landscaping; at newly created Sec. 15-40. Landscaping within village rights-of-way; permit requirements. to outline the requirements for installation of vegetation within village rights-of-way including canal banks; and to provide that Secs. 15-41 through 15-54 shall be reserved for future village purposes; providing that Article II. Administration; Waivers; and General Standards. shall hereafter read as follows:

**Sec. 15-35. - Administrator.**

The community development director and the planning and zoning director, as specified herein, or the official designee of such persons, shall administer the regulations in this chapter.

**Sec. 15-36. — Persons liable for prosecution.**

~~Persons charged with violation of this chapter may include:~~

- ~~(a) — The owner, agent, lessor, lessee, contractor, or any other person using the land, building, or premises where such violation has been committed or shall exist;~~
- ~~(b) — Any person who knowingly commits, takes part or assists in such violation; and~~
- ~~(c) — Any person who maintains any land, building, or premises in which such violation exists.~~

**Sec. 15-37. — Civil remedies.**

~~In addition to the penalties and enforcement procedures provided in section 15-4, the village may institute any lawful civil action or proceeding to prevent, restrain, or abate:~~

- ~~(a) — The unlawful construction, erection, reconstruction, alteration, rehabilitation, expansion, continuation, or use of any building or structure not in conformance with regulations of this chapter;~~
- ~~(b) — The occupancy of such building, structure, or land;~~
- ~~(c) — The illegal act, conduct, business, or use of in or about such premises; and~~

- ~~(d) Destructive land development practices such as speculative grubbing and clearcutting of lots when no bona fide development plan or vegetative management plan is approved for the site by the village.~~

~~**Sec. 15-38. Administrative remedies.**~~

- ~~(a) *Cease and desist orders.* The director shall have the authority to issue cease and desist orders in the form of written official notices given to the owner of the subject building, property or premises, or to his agent, lessee, tenant, contractor, or to any person using the land, building, or premises where such violation has been committed or shall exist.~~
- ~~(b) The procedure for building permits and certificates of occupancy and use under this chapter shall be as follows:~~
- ~~(1) *Issuance.* The village shall issue no building permit or certificate of occupancy for any purpose except in compliance with the provisions of this chapter and other applicable ordinances and laws.~~
  - ~~(2) *Revocation.* The village shall revoke a building permit or certificate of occupancy and use in those cases where determination has been duly made that false statements or misrepresentations existed as to material facts in the application or plans; upon which the permit or certificate was based.~~
  - ~~(3) *Suspension.* The village shall suspend a building permit or a certificate of occupancy and use in those cases where a determination has been duly made that an error or omission on either the part of the permit applicant or government agency existed in the issuance of the permit or certificate approval. A valid permit or certificate shall be issued in place of the incorrect permit or certificate after correction of the error or omission.~~
  - ~~(4) *Notice and appeal.* All village decisions concerning the issuance, revocation, or suspension of a building permit and the use or condition contained within this chapter shall be stated in official written notice to the permit applicant. Any decision may be appealed to the village council; however, such appeal must be in writing and filed with the department no later than thirty (30) days from the issuance of the official written notice.~~
  - ~~(5) *Issuance of certificates.* No certificates of occupancy will be issued unless all landscape material has been installed and is serviced by a functioning irrigation system. Temporary certificates of occupancy may be issued and appropriate substitutions of plant material or changes to the plan may be accomplished pursuant to the director's interpretation. Standards specified in this chapter are continuing and do not expire when a certificate of occupancy is issued.~~

**Sec. 15-39 ~~36~~. - Credit allowed for existing trees utilized for lot interiors and buffers.**

- (a) Trees existing on parcels to be developed, when such trees are not prohibited or required to be removed by this section, may be utilized as a credit against the required number of trees on such a parcel. Trees proposed for credit must be viable and acceptable at the time of final inspection. No credit shall be given for trees which:
  - (1) Are required to be preserved by law;
  - (2) Are prohibited or controlled species identified in this Code;
  - (3) Are dead, dying, diseased or infested with harmful insects; or
  - (4) Are not properly protected from damage during the construction process; or which, due to harm inflicted during the construction process, are dead, dying or diseased at the time of final inspection by the planning and zoning department.
- (b) Each existing native tree utilized on site for landscaping required pursuant to this chapter shall be counted and credited as two (2) new trees toward landscaping minimums. Each existing native palm tree shall be counted and credited on a one-to-one basis toward landscaping minimums.

**Sec. 15-40 ~~37~~. - Waivers.**

The village council may grant a waiver from the landscape requirements set forth in this chapter based on the following:

- (a) A written statement supplied by the applicant, specifying the section of the chapter for which a waiver is requested; the precise extent and duration of said waiver; and the reasons substantiating the request for waiver.
- (b) Written recommendation of the planning and zoning director and the planning and zoning commission, based on evaluation of the request, in view of the effect of the request on the landscape objectives of the village.
- (c) Any waiver granted by the village council shall specify the section of the chapter affected and the precise extent and duration of the waiver.
- (d) Due public notice for public hearings on requests for landscape waivers shall be as listed in section 26-32(d)(7) of village code.

**Sec. 15-41 ~~38~~. - Compliance.**

- (a) The planning and zoning department shall inspect all landscaping, ~~and~~ The community development department shall inspect all irrigation. No certificate of occupancy and use or similar authorization will be issued unless the landscaping and irrigation meets the requirements provided herein.
- (b)-(d) [Shall remain the same as previously adopted.]
- (e) Any person contracting to install landscaping required under this chapter for any new, enlargement, repair or remodeling construction shall hold a valid, current village business tax receipt~~occupational license~~.

**Sec. 15-42. - ~~Nonconforming sites.~~**

~~No existing property shall be permitted to increase the degree of nonconformity as it pertains to this chapter. Previously approved site plans, either developed or undeveloped, which subsequently request and receive approval from the village council for revisions affecting a change to, increase or decrease of twenty (20) percent or more of the number of residential units set forth on the previously approved site plan or for the revisions affecting a change to, increase or decrease of twenty (20) percent or more of the gross square footage for previously approved nonresidential site plans shall be required to install the minimum landscaping set forth in this chapter.~~

**Sec. 15-43. - ~~Effective date and previously approved developments.~~**

~~Developments that received village council approval prior to the effective date of this code section, November 15, 2001, are not subject to the provisions set forth herein except to the extent that such previously approved developments subsequently request modifications as set forth in section 15-42 above.~~

**Sec. 15-44 39. - Performance surety.**

In the event that the landscaping requirements of this chapter have not been met at the time that a temporary certificate of occupancy ~~or certificate of use~~ is requested, the planning and zoning department may approve such requests provided that the owner or their agent shall post a performance bond, letter of credit or other approved surety in an amount equal to one hundred twenty-five (125) percent of the cost of materials and labor and other attendant costs incidental to the installation of the required landscaping. The surety shall:

- (a)—(c) [Shall remain the same as previously adopted.]

**Sec. 15-40. – Landscaping within village rights-of-way; permit requirements.**

- (a) Permit required. All landscaping installed within village right-of-way (e.g., the area between the road and the sidewalk, and also the canal right-of-way easement area) requires a right-of-way/easement utilization permit issued by the village. No application for a right-of-way/easement utilization permit shall be accepted by the village unless such application is consistent with the requirements enumerated herein, is presented on the official forms provided by the village, and is accompanied by the required fee which shall be set by resolution of the village council. Registration required by chapter 21.7 of village code for right-of-way/easement utilization permits shall not be required to install landscaping.
- (b) Conditions of approval. The village engineer may approve or deny the application, in whole or in part, and may place conditions of approval upon the application, which, in the sole discretion of the village engineer, are necessary to mitigate the impacts created by the proposed installation of landscaping within village right-of-way.
- (c) No vested rights in vegetation installations; removal required. The issuance of a right-of-way/easement utilization permit is a license for permissive use only and the placing of installations upon public property pursuant to the permit shall not operate to create or vest any property right in the permittee. Whenever necessary for the construction, repair, improvement, maintenance, safe and efficient operation, alteration, or relocation of all, or any portion of, a village right-of-way, easement or other village facility, as determined by the village, the permittee shall immediately remove or relocate any or all of the installed landscaping at its sole cost and expense. If the permittee fails to comply, then the village shall have the right to perform this work and charge the permittee for the costs of said work.
- (d) Maintenance standards.
- (1) Shrubs. For purposes of this section only, shrubs shall be defined as a plant with a trunk diameter less than or equal to 4 inches at 6 inches above the ground. Shrubs shall be maintained at less than or equal to 2 feet overall height. Shrubs shall be maintained to prevent any portion of the shrub from encroaching into the roadway and sidewalk clear zones.
- (2) Palms. For purposes of this section only, palms shall be defined as a plant with a trunk diameter of more than 4 inches at 6 inches above the ground and an unbranched trunk bearing a crown of palm leaves. Palms shall be maintained to prevent any portion of the palm from encroaching into the roadway and sidewalk clear zones.
- (3) Trees. For purposes of this section only, trees shall be defined as a plant with a trunk diameter of more than 4 inches at 6 inches above the ground. Trees shall be maintained to prevent any portion of the tree from encroaching into the roadway and sidewalk clear zones.

(e) *Horizontal clear zones.* For purposes of this section only, the following clear zones/unobstructed areas shall be available for safe use by pedestrians, cyclists, and vehicles:

(1) 30-inch horizontal area measured from the edge of roadway pavement or curb to the trunk of the shrub; and

(2) 6-foot horizontal area measured from the edge of roadway pavement to the trunk of the tree or palm; and

(3) 1-foot horizontal area measured from the edge of sidewalk to the foliage of the shrub.

(f) *Vertical clear zones.* For purposes of this section only, the following clear zones/unobstructed areas shall be available for safe use by pedestrians, cyclists, and vehicles:

(1) Vertical area over the roadway and/or curb measured from the roadway surface to a height of 14 feet, 6 inches; and

(2) Vertical area over the sidewalk measured from the sidewalk surface to a height of 8 feet, 6 inches.

(g) *Utility clear zones.* For purposes of this section only, distance separation requirements between the planting trunk and the underground facility in order to prevent root damage shall be:

(1) *Storm Sewer Clearance.*

a. No vegetation shall be planted within 5 feet of the facility;

b. No trees or palms may be planted within 10 feet from the facility.

(2) *Other utilities.* For all other utilities (e.g., water, sanitary sewer, electric, communications, gas, irrigation), the applicant must adhere to individual agency guidelines.

(h) *Permanent surface clear zones.* For purposes of this section only, distance separation requirements between the planting trunk and a permanent surface (e.g., asphalt, concrete, pavers) in order to prevent root damage shall be:

(1) No vegetation shall be planted within 30 inches of a permanent surface; and

(2) No palms shall be planted within 5 feet of a permanent surface; and

(3) No trees shall be planted within 10 feet of a permanent surface.

(i) *Prohibited and restricted species.* The following vegetative species shall be prohibited or restricted in village right-of-way:

<u>Species Prohibited in Rights-of-Way</u>	<u>Species That Must Receive Village Approval Prior to Planting Near or Adjacent to Rights-of-Way</u>
<u>Earleaf Acacia</u>	<u>Benjamin Fig</u>
<u>Woman's Tongue Tree</u>	<u>Cuban Laurel</u>
<u>Alligator Weed</u>	
<u>Norfolk Island Pine</u>	
<u>Tree Bamboo</u>	
<u>Bischofia</u>	
<u>Schefflera</u>	
<u>Australian Pine</u>	
<u>Suckering Australian Pine</u>	
<u>Carrotwood</u>	
<u>Winged Yam</u>	
<u>Air-potato</u>	
<u>Water-hyacinth</u>	
<u>Ear tree</u>	
<u>Eucalyptus</u>	
<u>Loft Fig</u>	
<u>Florida Strangler Fig</u>	
<u>Indiarubber Fig</u>	
<u>Silk Oak</u>	
<u>Mahoe</u>	
<u>Hydrilla</u>	
<u>Green Hygro</u>	
<u>Cogon Grass</u>	
<u>Waterspinach</u>	
<u>Japanese Climbing Fern</u>	
<u>Old World Climbing Fern</u>	
<u>Melaleuca, Paper Bark</u>	
<u>Chinaberry</u>	
<u>Catclaw Mimosa</u>	
<u>Eurasian Water-Milfoil</u>	
<u>Burma Reed; Cane Grass</u>	
<u>Sewer Vine, Onion Vine</u>	
<u>Skunk Vine</u>	
<u>Water Lettuce</u>	
<u>Kudzu</u>	
<u>Downy Rose-Myrtle</u>	
<u>Popcorn Tree, Chinese Tallow Tree</u>	
<u>Brazilian Pepper</u>	
<u>Wetland Night Shade, Aquatic</u>	
<u>Susumber, Turkey Berry</u>	

Tropical Soda Apple	
Java Plum	
Cork Tree	

- (j) Violations; penalties; and remedies. Violations of this section shall subject the violator to the penalties and village remedies outlined in sections 15-4—15-7, 15-60 and/or 15-63.
- (k) Hatracking and tree abuse of palms and trees planted within village right-of-way. Hatracking or tree abuse of palms and trees planted within village right-of-way is permitted in order to comply with the maintenance and clear zone standards required by this section.
- (l) Village-approved streetscape program. Palms or trees planted in village right-of-way pursuant to a village-approved streetscape program shall be pruned, maintained or preserved pursuant to the streetscape program development order. If the streetscape program development order is silent as to the location, pruning, maintenance and preservation requirements of streetscape palms or trees, then the requirements of this section shall apply.

**Secs. 15-45 41—15-54. - Reserved.**

**Section 3:** Chapter 15. Landscaping and Vegetation Management. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article III. Vegetation Management. at Sec. 15-58. Aquatic vegetation; maintenance. to provide that the planning and zoning director shall approve aquatic vegetation maintenance plans; at Sec. 15-60. Abatement by the village. to clarify abatement procedures of the village; at Sec. 15-63. Immediate abatement. to clarify the immediate abatement procedures of the village; and to provide that Secs. 15-64 through 15-70 shall be reserved for future village purposes; providing that Article III. Vegetation Management. shall hereafter read as follows:

**Sec. 15-55. - Vegetation waste disposal.**  
[Shall remain the same as previously adopted.]

**Sec. 15-56. - Lawn maintenance required.**  
[Shall remain the same as previously adopted.]

**Sec. 15-57. - Height of weeds, grass; nuisance.**  
[Shall remain the same as previously adopted.]

**Sec. 15-58. - Aquatic vegetation; maintenance.**

It shall be unlawful and a violation of this section for the owner or the responsible maintenance entity to fail to maintain aquatic vegetation in accordance with the following:

- (a)—(b) [Shall remain the same as previously adopted.]
- (c) *Aquatic vegetation maintenance plan.* Every property owner or responsible maintenance entity who owns or controls a water body that connects to the village canal system shall develop and implement an aquatic vegetation maintenance plan. As a minimum that plan shall include:
  - (1)—(2) [Shall remain the same as previously adopted.]
  - (3) The specific aquatic vegetation being addressed including, but not limited to, water hyacinths, chara, cattails, broadleaf weeds, hydrilla, algae, coon-tail, milfoil, southern naiad, torpedo grass, alligatorweed, duckweed, ditchbank grasses and other waterborne weeds which may be included by the planning and zoning director in the approved plan; and
  - (4) [Shall remain the same as previously adopted.]

**Sec. 15-59. - Procedure for notification of violators.**

[Shall remain the same as previously adopted.]

**Sec. 15-60. - Abatement by the village.**

If the owner or occupant, after being served with notice, does not abate the violation within the time period set forth in the notice, the village code inspector may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be assessed against and charged to the violator, and shall be paid by the violator. ~~Failure to pay~~ The abatement assessment within the time specified by the village, which may include, but not be limited to, administrative costs such as attorney's fees and special magistrate fees, and charges for weed removal, vegetation removal, or aquatic vegetation removal, may be recorded as a lien against the property, enforceable in accordance with the procedures set forth in Chapter 162, Florida Statutes, and in Chapter 2, Article V of the Village Code. ~~shall result in a lien being recorded against the property.~~ The violation may be brought before the code enforcement board or special ~~master~~ magistrate even after abatement procedures have been instituted in order to obtain a finding of violation, assess additional fines and recover the costs of abatement.

**Sec. 15-61. - Village may contract for abatement.**

[Shall remain the same as previously adopted.]

**Sec. 15-62. - Owners may contract with village for removal.**

[Shall remain the same as previously adopted.]

**Sec. 15-63. - Immediate abatement.**

If the community development director, upon being informed of a violation of this chapter, determines that any violation of this chapter is likely to immediately and seriously threaten the public health, safety, comfort or general welfare, the director may order the summary abatement of such violation after making a reasonable effort to provide notice of such abatement, even if such notice is not actually received by the property owner. All costs of such abatement shall be paid by the violator in a timely manner. ~~Failure to timely pay shall result in a lien being recorded against the property.~~ The abatement assessment, which may include, but not be limited to, administrative costs such as attorney's fees and special magistrate fees, and charges for weed removal, vegetation removal, or aquatic vegetation removal, may be recorded as a lien against the property, enforceable in accordance with the procedures set out in Chapter 162, Florida Statutes, and in Chapter 2, Article V of the Village Code.

**~~Sec. 15-64. - Vertical vegetation clearance; sidewalks, roadways and/or easements.~~**

~~Seven (7) feet of vertical clearance shall be maintained between any vegetation and all roadways, thoroughfares, sidewalks, drives, easements and/or rights-of-way; as measured from such surface to the lowest hanging portion of the subject vegetation. Failure to maintain such vertical clearance shall constitute a violation of the Village Code.~~

**~~Secs. 15-64 65—15-70. - Reserved.~~**

**Section 4:** Chapter 15. Landscaping and Vegetation Management. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article IV. Vegetation Protection and Preservation. at Sec. 15-71. Vegetation removal permit required; applicability. to clarify that the vegetation removal permits are issued by the planning and zoning department, and which properties are required to pay permit fees; at Sec. 15-72. Application for permit; contents. to clarify the planning and zoning department's review of vegetation removal permit applications, and the contents of those applications; at Secs. 15-73. Permit fee. and 15-74. Permit application. to repeal these sections in their entirety; at Sec. 15-75. Granting of permits; minimum standards. to renumber this section as Sec. 15-73 and further to outline when a vegetation removal permit may be issued; at Sec. 15-76. Development within preservation area. to renumber said section as Sec. 15-74, and to clarify that the planning and zoning department inspects preservation areas; at Sec. 15-77. Suspension of provisions in times of emergency. to renumber this section as Sec. 15-75; at Sec. 15-78. Exemptions to permit requirement. to renumber this section as Sec. 15-76, and to clarify when a vegetation removal permit is not

required; at Sec. 15-79. Expiration. to renumber this section as Sec. 15-77; at newly created Sec. 15-78. Specimen tree protection requirements. to outline which trees constitute specimen trees for conservation purposes; at newly created Sec. 15-79. Tree replacement. to provide when certain trees are required to be replaced or mitigated; at Sec. 15-80. Vested rights for certain developments. to repeal this section in its entirety since it is restated in Article I. In General. at Sec. 15-3. Applicability of chapter; and to provide that Secs. 15-80 through 15-125 shall be reserved for future village purposes; providing that Article IV. Vegetation Protection and Preservation. shall hereafter read as follows:

## ARTICLE IV. - VEGETATION PROTECTION AND PRESERVATION

### Sec. 15-71. - Vegetation removal permit required; applicability.

- (a) *In general.* Unless otherwise provided in this chapter, no person, corporation, association, public agency, or agent or employee thereof, shall remove vegetation from any lot or portion thereof within the village without first obtaining a vegetation-removal permit from the community development department. ~~Although initial development of individual single family detached or duplex residences on lots of less than one and five tenths (1.5) acres, not part of an overall development with approved landscaping, are exempt from the provisions of this subsection as provided for in section 15-78 herein, all other single family detached or duplex development occurring or existing shall be subject to the requirements of this subsection.~~ Single-family detached or duplex residences shall obtain a no-fee vegetation-removal permit prior to the removal of any trees, shrubs or hedges in order to ensure that the parcel or parcels retain the minimum landscaping required pursuant to sections 15-3 or 15-130 and to ensure the protection of specimen trees. All other developments, or applicants seeking to remove vegetation on undeveloped land, shall obtain a vegetation-removal permit, and pay the associated permit fee as established by resolution of the village council, prior to the removal of any trees, shrubs or hedges in order to ensure that the parcel or parcels retain the minimum landscaping required pursuant to sections 15-3 or 15-130 and to ensure the protection of specimen trees.
- (b) *Applicability to public agencies.* Unless otherwise provided in this chapter, all public agencies shall be subject to the requirements of this chapter. The village, however, shall not be subject to:
- (1) The permit application fees established by section ~~15-73~~ 15-71 or
  - (2) The penalties established by section 15-4 of this chapter.
- (c) [Shall remain the same as previously adopted.]
- (d) Where hardwood hammock, cypress heads, wetlands, palmettos, sand pine/scrub or pine flatwood associations are present, every effort shall be made to preserve and protect these areas. The applicant shall endeavor to include the above features in the open space requirements for the proposed development. See subsection 15-127(d).

**Sec. 15-72. - Application for permit; contents; standards of review.**

- (a) *Form of application.* Any person desiring a vegetation removal permit shall make written application to the community development department upon forms to be provided by the department.
- (b) *Documents to be notarized.* The application form shall be accurately completed, signed, and notarized by the property owner or his agent. If the application is submitted by an agent, it shall include a notarized agency agreement clearly indicating that the property owner has delegated full authority to apply for the permit and to accept the terms of any special conditions which may be imposed by the community development department. The application shall include the name, address, and telephone number of the lot owner and his agent.
- (c) ~~*Generalized vegetation inventory*~~ *Contents of application.* Each application for a vegetation removal permit shall ~~be accompanied by a generalized vegetation inventory which shall~~ consist of the following:
- (1) *Generalized vegetation survey.* A generalized-vegetation survey showing the approximate location and extent of vegetation upon the site is required. The survey shall be based upon the most current available information. For nonresidential and multifamily developments, the survey may be in the form of an aerial or a field survey, and shall be accompanied by photographs illustrating areas of vegetation. For individual single-family or duplex developments, the survey may be in the form of hand-drawn sketches accompanied by photographs of existing site conditions. If site development plans have been prepared, the generalized vegetation survey shall be prepared to the same scale or in some other manner which clearly illustrates the relationship between areas of vegetation and proposed site improvements. If no site development plans are available, the generalized vegetation survey shall be prepared to a convenient scale which clearly reveals the extent of vegetation upon the site. The intent of this subsection is to insure that the community development department is sufficiently informed by the applicant of vegetation conditions on the subject property prior to development of same. Regardless of form, the survey must show all specimen trees along with their density height and trunk dimensions. All trees and vegetation to be removed shall be clearly noted, and all specimen trees proposed for removal shall be individually noted;
- (2) *Written assessment and evaluation.* The generalized vegetation survey shall be accompanied by a brief written assessment of the plant communities which have been identified on the site. The assessment shall include an evaluation of character and quality of the plant communities identified, including their rarity, viability, and such other physical characteristics and factors which may effect their preservation. The written assessment also shall include a brief statement

~~describing the need for, and intent of the proposed work. For projects other than individual single family and duplex residences, the assessment and evaluation shall be prepared by the county soil and water conservation district or by a person knowledgeable in the identification and evaluation of vegetative resources, such as a forester, biologist, ecologist, horticulturist, landscape architect, or other person having similar recognized skills and experience.~~

- (3) *Additional information.* The planning and zoning department may require that the application include such additional information which is reasonable and necessary for adequate administration of this chapter.
- (4) *Number of copies.* The application and accompanying documents shall be submitted to the community development department along with three (3) copies.

~~(d) *Standards of review.* The application shall be reviewed by the planning and zoning department on the following criteria:~~

- ~~(1) The extent to which the actual or intended use of the property requires removal, cutting down or destruction of trees and vegetation;~~
- ~~(2) The desirability of preserving any tree by reason of its size, age, or some other outstanding quality, such as uniqueness, rarity or status as a protected tree or specimen tree;~~
- ~~(3) The extent to which the area would be subject to increased water runoff and other environmental degradation due to removal of the trees and vegetation;~~
- ~~(4) The desirability of preserving or enhancing tree cover in densely developed populated areas;~~
- ~~(5) The need for visual screening in transitional areas, or relief from glare, blight, commercial or industrial unsightliness or other affront to the visual or aesthetic sense in the area;~~
- ~~(6) The effect that changes in the natural existing grade will have on the trees to be protected and preserved;~~
- ~~(7) The effect that changes in the natural or existing grade will have on drainage and its impact on adjoining properties;~~
- ~~(8) The health of the existing trees on site;~~
- ~~(9) The extent to which existing tree coverage provides connections to adjacent open space, wildlife habitat, or natural vegetative areas; and~~

(10) Whether the tree is part of a village-approved streetscape program. Trees planted pursuant to a village-approved streetscape program shall be considered required landscaping and protected vegetation once installed.

**Sec. 15-73. – Permit fee.**

- ~~(a) Required. An application shall not be deemed to be complete unless it is accompanied by an application fee as established by a resolution of village council.~~
- ~~(b) Triple fees for work commenced without a permit. The permit fee shall be tripled whenever vegetation removal subject to this chapter is commenced without having first obtained a permit.~~
- ~~(c) Effective date for application fees. Application fees shall be required for permit requests received on or after the effective date of this chapter.~~

**Sec. 15-74. – Permit application.**

~~The department shall review each complete application and shall render a decision within fifteen (15) working days of acceptance. If no decision is made within the indicated time period, the permit shall be deemed to have been granted.~~

**Sec. 15-75 73. - Granting of permits; minimum standards.**

(a) When vegetation removal permits shall be granted. The planning and zoning department shall grant a vegetation removal permit, which shall subsequently be issued by the community development department, provided that the application is accomplished by sufficient evidence either that:

~~(a) No protected vegetation exists upon the lot; or~~

(1) All vegetation and trees are removed, replaced, relocated or mitigated in accordance with this chapter; and

~~(b) 2) Removal, replacement, relocation or mitigation, as applicable, is being accomplished pursuant to an approved plan such as: Removal of protected vegetation is deemed to be necessary in order to:~~

~~(1) a. Implement a A bona fide site development plan, a village-approved streetscape program, or a written vegetation removal plan; or~~

~~(2) b. Initiate A preliminary site development according to an orderly program which includes a vegetation management element. Such element must be consistent with the intent of this chapter; and~~

substantially conform to the environmental protection standards outlined in the latest edition of "Silvaculture Best Management Practices Manual" prepared by the division of forestry of the state, or to best management practices for vegetation protection recognized by such professional associations as the American Forestry Association, the American Arborists Association, or the American Society of Landscape Architects.

(b) *Vegetation removal permits for specimen trees.* Notwithstanding the above, no vegetation removal permit shall be issued for specimen trees unless the planning and zoning department finds that at least one (1) of the following criteria is satisfied with respect to each specimen tree designated for removal:

- (1) The specimen tree is located within the net buildable area of a given site as identified on the tree survey and site plan submitted by the applicant and there is no reasonable alternative to relocate or reconfigure the improvements;
- (2) The specimen tree is located within an existing or proposed right-of-way and there is no reasonable alternative to relocate or reconfigure the improvements;
- (3) The specimen tree is located within an existing or proposed easement, stormwater management tract or facility, provided that only the minimum area reasonably necessary for the service or use shall be considered for purposes of determining whether there is necessity for specimen tree removal;
- (4) The specimen tree is in danger of falling or is located where it creates a safety or health hazard or a nuisance with respect to existing structures, vehicles or pedestrian routes and there is no reasonable method by which to rehabilitate or restore the health of the tree through proper pruning or other remediation techniques in order to mitigate the safety or health hazard or nuisance. The planning and zoning department may require verification of claim(s) be provided by the applicant from a certified engineer or certified arborist in the State of Florida;
- (5) The specimen tree is located where it interferes with the installation, delivery or maintenance of proposed or existing utility services to the site and there is no reasonable alternative to relocate or reconfigure the improvements;
- (6) The specimen tree is confirmed by the planning and zoning department, or by a certified arborist to be deteriorated, diseased, dead or severely injured, and there is no reasonable method by which to rehabilitate or restore the health of the tree through proper pruning or other remediation techniques;
- (7) The tree unreasonably prevents development of a lot or parcel of the physical use thereof. However, a vegetation removal permit shall not be granted where the applicant has failed to design and locate the proposed

improvements so as to minimize the removal of trees consistent with the permitted use of the lot or parcel under the village zoning code; or

(8) The property is in compliance with the minimum number of specimen trees to be preserved per acre pursuant to section 15-78(b).

~~(e) The permit shall provide for the removal of prohibited plant species. Prohibited plant species as defined shall be removed prior to development of a parcel. Removal shall be accomplished so as to minimize seed dispersal.~~

~~(d c) Conditions of approval. The permit may provide for special candidates as the approval include the following special conditions of approval, which may include, but are not limited to:~~

(1) *Limits on extent of removal.* The extent of approval to remove vegetation shall be limited by the planning and zoning department to the minimum necessary to accomplish the purpose of the removal operation and in order to address the criteria outlined in section 15-72(d). This may include limiting the extent of approval to portions of a site or specifying special conditions by which removal shall take place (e.g., root pruning for relocation). Such limitations shall be clearly indicated in writing in the vegetation removal permit. If vegetation removal is limited to portions of a site, the extent of such limitation shall be clearly delineated on the face of any site development plans. Surety may be required as a condition of approval.

(2) Limits on nature of removal operations/clearing procedures in order to address the criteria outlined in section 15-72(d).

~~(3) Replacement requirements. Replacement of vegetation or trees removed may be required if the vegetation or trees are specimen trees, or required pursuant to a site plan, permit, development order or sections 15-3 or 15-130.~~

~~(d) Posting of permit. A copy of the approved vegetation removal permit shall be clearly posted on the job site during all phases of clearing and construction activities.~~

~~(e) Issuance of permit not approval of violation. The issuance of a vegetation removal permit shall not be construed to be a permit for or approval of any violation of this chapter.~~

~~(e f) Protective barriers. A suitable protective barrier, constructed of metal, wood, or other durable material, shall be placed around individual protected trees, specimen trees, or other vegetation, being preserved to protect them from damage during the land clearing and construction stages of development, as follows:~~

(1) At a distance of six (6) feet or more from all species of mangroves; or

- (2) At a distance of six (6) feet or more, or at a distance outside of two-thirds of the radius of the dripline, from all protected hardwood trees, whichever is greater; or
  - (3) At a distance of six (6) feet or greater, or at a distance of the radius of the dripline of all protected conifers, whichever distance is greater; or
  - (4) As otherwise provided in special conditions attached to a vegetation removal permit.
- (f g) Other protective measures. Unless otherwise provided by law or in the terms of special conditions included in a vegetation removal permit, groups of protected trees, specimen trees, or areas of vegetation to be preserved shall not require protective barriers. However, such areas shall be prominently highlighted by the installation of stakes installed a maximum of fifty (50) feet apart. Ropes, plastic tape, ribbons, or similar material shall be attached to the stakes around the perimeter of the protected area. No marking materials shall be attached to a protected tree or specimen tree. Special care shall be taken that preservation areas are properly marked so that equipment operators can see the limits of permitted removal activity.
- (g h) Removal of protective measures. Protective barriers or protective designations shall remain in place until they are authorized to be removed by appropriate building or other field inspection staff or until receipt of a certificate of occupancy.
- (h i) Failure to protect. Failure to provide vegetation protection as stated herein shall constitute tree abuse and is violation of this section. Abused and/or trees removed within a preservation area shall be replaced in accordance with section 15-79 at a ratio of three (3) new trees to each abused or protected tree with such planting guaranteed for one (1) year.

**Sec. 15-76 74. - Development within preservation area.**

- (a)—(c) [Shall remain the same as previously adopted.]
- (d) [Department inspection.] Planning and zoning department inspection shall be required prior to the issuance of a building permit to insure compliance with minimum standards of vegetation protection.
- (e) Supplemental vegetation protection standards. In addition to the minimum standards established above, supplemental standards may be imposed by the planning and zoning department as a special condition of a vegetation removal permit. These supplemental standards shall be based upon the suggested standards in the latest edition of "Tree Protection Manual for Builders and Developers," published by the division of forestry of the state department of agriculture and consumer affairs, or a similar recognized reference manual. A reference copy of the division of forestry manual is available at the planning and zoning department.

**Sec. 15-~~77~~ 75. - Suspension of provisions in times of emergency.**

The provisions of this chapter may be suspended or waived by the village manager during a period of officially declared emergency, such as a hurricane, windstorm, flood, or similar disaster.

**Sec. 15-~~78~~ 76. - Exemptions to permit requirement.**

No vegetation protection permit shall be required for the removal of vegetation in the following situations:

- (a) *Initial construction of individual single-family or duplex residents.* The initial construction of one (1) single-family detached or one (1) duplex residence upon a single lot of less than one and five-tenths (1.5) acres in size not part of an overall development with approved landscape plans. However, any vegetation protected as part of the overall development landscape permit may not be removed without a permit or mitigation. See section 15-~~75~~ 73.
- ~~(b) *Initial construction of structures accessory to individual single family or duplex residences.* The initial construction of buildings or structures accessory to one (1) single family or one (1) duplex residence upon a single lot of less than one and five-tenths (1.5) acres in size.~~
- (c) *Hazardous situations.* Removal of a protected or specimen tree which has been destroyed or so severely damaged by natural causes that it constitutes a peril to life or property due to the close proximity to vertical construction. Replacement or mitigation may still be required after removal of protected or specimen trees, or to satisfy site plan, permit, development order or sections 15-3 or 15-130 requirements. In order to qualify for this exemption to the permit requirement, documentation (e.g., photographs) shall be taken prior to the removal, which demonstrates the hazardous situation, the species of tree being removed and the trunk size DBH (in inches). Trees planted pursuant to a village-approved streetscape program may be removed for hazardous conditions as outlined in the streetscape program development order.
- (d) *Bona fide agricultural production.* Bona fide agricultural production, provided however that bona fide agricultural production shall not include lumber harvesting incidental to land development permitted by a bona fide site development plan.
- (e) *Installation and maintenance of certain rights-of-way and easements.* The removal of vegetation by or pursuant to the direction of public or private utilities, public airports and heliports, the South Florida Water Management District, public drainage districts, and similar agencies, whether or not emergency conditions exist, provided that the vegetation is either:

- (1) Located within utility or drainage easements or public rights-of-way; or
  - (2) Actually or potentially interfering with utility services, drainage, or aircraft flight patterns.
- (f) *Botanical or horticultural activities.* Botanical gardens, botanical research centers, or licensed commercial nurseries.
- (g) *Vegetation required to be removed by law.* Vegetation which is required to be removed by law, ordinance, or the lawful exercise of some other public power.
- (h) *Prohibited vegetation.* Except for land clearing on an undeveloped parcel, no permit shall be required for the removal of prohibited vegetation. Prohibited vegetation shall be removed prior to development of a parcel. Removal shall be accomplished so as to minimize seed dispersal. In order to qualify for this exemption to the permit requirement, documentation (e.g., photographs) shall be taken prior to the removal, which demonstrates the prohibited vegetation removed.

**Sec. 15-79 ~~77~~. - Expiration.**

- (a) *Automatic expiration.* Vegetation removal permits shall automatically expire and become null and void if the work authorized by such permit is not commenced within three (3) months after the date of the permit.
- (b) *Abandonment of permitted vegetation removal.* Vegetation removal permits shall expire and become null and void if authorized removal work, once commenced, is suspended, discontinued, or abandoned for a period equal to or greater than six (6) months.
- (c) *New permit required.* If a vegetation removal permit expires or becomes void after work has commenced, a new permit shall be obtained before work is resumed.

**Sec. 15-78. – Specimen tree protection requirements.**

- (a) *Definition of specimen trees.* The following species of trees with the minimum specified diameter at breast height are determined to be specimen trees in the village:

<u>Common Name</u>	<u>Scientific Name</u>	<u>Trunk Size (in inches) DBH</u>
<u>Bald Cypress</u>	<u>Taxodium dissichum</u>	<u>10</u>
<u>Black Ironwood</u>	<u>Krugiodendron ferreum</u>	<u>6</u>

<u>Blolly</u>	<u>Pisonia discolor</u>	<u>5</u>
<u>Chapman Oak</u>	<u>Quercus chapmannii</u>	<u>6</u>
<u>Dahoon Holly</u>	<u>Ilex cassine</u>	<u>5</u>
<u>False Mastic</u>	<u>Mastichodendron foetidissimum</u>	<u>8</u>
<u>Fiddlewood</u>	<u>Citharexylum fruiticosum</u>	<u>2</u>
<u>Geiger Tree</u>	<u>Cordia sebestena</u>	<u>6</u>
<u>Green Buttonwood</u>	<u>Conocarpus erecta</u>	<u>10</u>
<u>Gumbo Limbo</u>	<u>Bursera simaruba</u>	<u>10</u>
<u>Lancewood</u>	<u>Nectandra coriacea</u>	<u>7</u>
<u>Laurel Oak</u>	<u>Quercus laurifolia</u>	<u>10</u>
<u>Live Oak</u>	<u>Quercus virginiana</u>	<u>10</u>
<u>Myrtle Oak</u>	<u>Quercus myrtifolia</u>	<u>5</u>
<u>Paradise Tree</u>	<u>Simarouba glauca</u>	<u>9</u>
<u>Pigeon Plum</u>	<u>Coccoloba diversifolia</u>	<u>7</u>
<u>Pond Cypress</u>	<u>Taxodium ascendens</u>	<u>10</u>
<u>Red Bay</u>	<u>Persea borbonia</u>	<u>10</u>
<u>Red Maple</u>	<u>Acer rubrum</u>	<u>10</u>
<u>Royal Palm</u>	<u>Roystonea Regia</u>	<u>14</u>
<u>Royal Poinciana</u>	<u>Delonix Regia</u>	<u>20</u>
<u>Sand Live Oak</u>	<u>Quercus virginiana var. geminata</u>	<u>10</u>
<u>Sand Pine</u>	<u>Pinus clausa</u>	<u>7</u>
<u>Satinleaf</u>	<u>Chrysophyllum oliviforme</u>	<u>6</u>
<u>Seagrape</u>	<u>Coccoloba uvifera</u>	<u>10</u>
<u>Silver Buttonwood</u>	<u>Conocarpus erectus var. sericeus</u>	<u>7</u>

<u>Soapberry</u>	<u>Sapindus saponaria</u>	<u>2</u>
<u>South Florida Slash Pine</u>	<u>Pinus elliottii var. densa</u>	<u>10</u>
<u>Spicewood</u>	<u>Calyptanthes pallens</u>	<u>4</u>
<u>Sweet Bay</u>	<u>Magnolia virginiana</u>	<u>9</u>
<u>Torchwood</u>	<u>Amyris ekemifera</u>	<u>2</u>

(b) Required preservation of specimen trees. All specimen trees not exempted by this chapter shall be preserved and protected according to the schedule below.

<u>Number of Specimen Trees on Site</u>	<u>Minimum # of Specimen Trees to be Preserved</u>
<u>1 per acre</u>	<u>100 percent of all specimen trees</u>
<u>1.1 to 3 per acre</u>	<u>2 per acre</u>
<u>3.1 to 5 per acre</u>	<u>3 per acre</u>
<u>5.1 to 8 per acre</u>	<u>4 per acre</u>
<u>More than 8 per acre</u>	<u>50 percent of all specimen trees per acre, up to a maximum of 6 trees per acre</u>

Tree counts may be averaged over the total number of acres in a development project. For individual single-family lots that are less than one (1) acre in size, the actual size of the lot shall be substituted for the term “acre” above in order to calculate the minimum number of specimen trees to be preserved on that lot.

(c) Conservation easements and development orders. For the purpose of site planning and/or platting new residential and nonresidential developments, specimen trees are to be preserved and maintained by the use of tree conservation easements granted to the village, or through development orders issued by the village. For new planned unit developments, developers shall locate tree conservation easements or areas wholly within common areas of a homeowners association, property owners association, or other similar entity, and not on an individual private lot unless otherwise approved by the planning and zoning department, to ensure public and/or resident benefit and enjoyment. The minimum size of such easement or area shall be one foot diameter for every one inch diameter at breast height or the dripline of the tree, whichever is greater, unless otherwise approved by the planning and zoning department.

- (d) Relocation of specimen trees. Specimen trees may be relocated pursuant to a vegetation removal permit. Relocated specimen trees that die, deteriorate or become diseased after re-planting shall be replaced in accordance with the village’s tree replacement formula contained in section 15-79.
- (e) Replacement of specimen trees. Specimen trees shall be replaced in cases where such trees are diseased, deteriorated, or dead. In such case, the developer or property owner may replace the trees pursuant to a replacement schedule approved by the planning and zoning department and according to the village's tree replacement formula contained in section 15-79. Replacement trees allowed under this subsection shall only count toward the specimen tree being replaced, and shall not count toward any other individual lot requirements unless otherwise approved by the planning and zoning department.
- (f) Tree survey/protection and preservation after construction. As part of a land clearing permit, vegetation removal permit, site plan, landscape plan, or plat application, a tree survey shall be required to identify and locate all specimen trees on the site. A developer shall provide or shall be subject to legal mechanisms which insure the protection of specimen trees after building construction has occurred on the site. Such mechanisms may include, but shall not be limited to, conditions of approval contained in development orders, conservation easements, common open space, tree protection easements, deed restrictions and homeowner association documents.

**Sec. 15-79. – Tree replacement.**

- (a) In general. In order to maintain the wooded and natural character of the village and provide for perpetual reforestation of the urban forest, all specimen trees, or trees required pursuant to sections 15-3 or 15-130, a site plan approval, permit or other development order, that are removed from a site shall be replaced.
- (b) Replacement schedule for trees. Replacement trees shall be provided in accordance with the following schedule:

<u>Tree Diameter at Breast Height</u>	<u>Required Replacement Trees</u>
<u>2—8"</u>	<u>1</u>
<u>9—16"</u>	<u>2</u>
<u>17—24"</u>	<u>3</u>
<u>25—32"</u>	<u>4</u>
<u>33—40"</u>	<u>5</u>
<u>41" +</u>	<u>6</u>

However, this tree replacement schedule shall not be followed, and trees shall be replaced on a one-to-one ratio at the minimum size specifications contained in section 15-130 regardless of the size of the tree diameter at breast height or specimen tree classification, in the following circumstances:

- (1) A tree becomes deteriorated, dies or is severely injured, and there is no reasonable method by which to rehabilitate or restore the health of the tree through proper pruning or remediation techniques;
- (2) Such deterioration, death or severe injury is caused by a named storm event for which there has been a declaration of emergency issued for Palm Beach County, by lightning, or by a motor vehicle accident; and
- (3) Such deterioration, death or severe injury due to the named storm event, lightning, or motor vehicle accident, and the inability to rehabilitate or restore the health of the tree, is confirmed by the planning and zoning department. The planning and zoning department may require verification of claim(s) be provided by a property owner.

If a specimen tree becomes deteriorated, dead or severely injured due to a named storm event, lightning, or a motor vehicle accident, and qualifies for the one-to-one replacement schedule, then the specimen tree shall be replaced with one (1) tree at the minimum size specifications contained in section 15-130 regardless of whether the tree is a required tree pursuant to a site plan, permit, development order, or sections 15-3 or 15-130 of village code.

- (c) *Replacement species and size.* Trees to be removed shall be replaced with the same species or a similar species as approved by the planning and zoning department, planning and zoning commission, or village council as applicable. The minimum size specifications for replacement trees shall be the minimum landscaping requirements contained in section 15-130. Replacement plantings shall be guaranteed for one (1) year. In the event that replacement requirements cannot be determined due to insufficient trunk of a removed tree (e.g., cannot determine species or DBH), such removed tree shall be replaced in the same manner as a specimen Live Oak at 10 inch DBH.
- (d) *Replacement location.* Replacement trees should be planted in the same location as the original tree, wherever possible. Replacement trees planted in areas other than the original location shall be first approved by the planning and zoning department, planning and zoning commission, or village council, as applicable, depending on whether a site plan, permit or development order modification is required. Such replacement trees shall be located in an area accessible to irrigation or hand watering to ensure survival.
- (e) *Tree bank.* If site constraints make it impossible or impracticable to provide the requisite number of replacement trees on the property, at the determination of the planning and zoning department, the person or entity required to provide replacement trees shall have the option to donate replacement trees to the village for placement on village-owned property or for use in a neighborhood reforestation plan as approved by the village

council, or make a contribution to the village's tree bank based on the tree banking formula listed below:

Specimen Tree Banking Formula

Minimum DBH (in inches) to qualify as a specimen tree based on species x number of replacement trees × accepted national value per caliper inch

Non-specimen Tree Banking Formula

2.0 (minimum inches DBH) or actual DBH of removed tree, whichever is greater x number of replacement trees x accepted national value per caliper inch

The accepted national value shall be based upon the Guide for Plant Appraisal, 10th Edition (United States), as amended from time to time.

The village shall establish a separate project account for the tree bank for the deposit of mitigation payments as required by this chapter. All monies deposited in the tree bank shall be expended, utilized and disbursed for the purchase and installation of trees on any village-owned land, or pursuant to a neighborhood reforestation plan as approved by the village council. Such monies also may be used for ancillary costs associated with the above-mentioned tree purchase and installation including but not limited to, landscaping around trees, sprinkler systems, labor, consultant services and such other services or materials necessary and proper for the preservation, maintenance, relocation or restoration of tree ecosystems. These monies also may be utilized to purchase land intended for conservation, tree preservation or public open space.

**~~Sec. 15-80. – Vested rights for certain developments.~~**

~~This chapter shall not apply to developments for which applications for building permits have been accepted by the department prior to the effective date of this chapter. This chapter shall apply to any such development if the building permit subsequently expires or otherwise becomes void.~~

**Secs. 15-81 ~~80~~—15-125. - Reserved.**

**Section 5:** Chapter 15. Landscaping and Vegetation Management. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article V. Design Standards. at Sec. 15-126. Landscape plans submission and approval. to clarify that the planning and zoning department shall review landscape plans for technical compliance with Village Code, and to further clarify which properties are required to submit landscape plans for review; at Sec. 15-127. Landscape plans contents. to clarify that the planning and zoning department has lists available for xeriscape landscaping plant materials; at Sec. 15-129. Protection of public infrastructure. to clarify that the planning and zoning department may approve phased eradication programs for prohibited plant species, and has reference copies pertaining to Florida Power and Light approved plant and tree species lists; at Sec. 15-130. Minimum landscaping requirements. to clarify that minimum landscaping requirements for single-family lots shall be

based on net lot area; at Sec. 15-131. Perimeter landscape buffers required. to clarify that the planning and zoning department shall review landscape buffers for compliance with this chapter; at Sec. 15-132. Requirements for certain setback and yard areas. to clarify that the planning and zoning director shall process landscape waivers relating to single-family residential maintenance and mowing obligations; and at Sec. 15-134. Temporary suspension of landscaping requirements. to clarify that the planning and zoning director and department shall make determinations regarding the temporary suspension of landscaping requirements during freezes and droughts; providing that Article V. Design Standards. shall hereafter read as follows:

**Sec. 15-126. - Landscape plans submission and approval.**

Prior to the issuance of site plan approval, a landscape plan shall be submitted to and approved, approved with modifications, or denied by the planning and zoning department for technical compliance with this section. The planning and zoning department shall approve, approve with modifications, or deny a landscape plan within thirty (30) days of submittal of the plan. Approved plans subject to review under subsection 2-75.27(b), shall be transmitted from the department to the planning and zoning commission for commission review and comment. The commission shall advise the village council of the commission's recommendation regarding the plan within thirty (30) days of receipt of the plan by the commission. Final action on the landscape plans for all proposed commercial, single-family, multifamily, and industrial development shall be taken by the village council. Individual single-family dwellings and duplexes shall be exempt from submitting a landscape plan to the village. ~~all provisions of this chapter with the exception of those regulations pertaining to swales and visibility at intersections.~~

**Sec. 15-127. - Landscape plans contents.**

- (a)—(b) [Shall remain the same as previously adopted.]
- (c) The existing natural landscape character shall be preserved whenever possible. By way of example, in an area containing a stand of trees, the applicant shall preserve as many trees as possible. Further landscaping shall be accomplished in a complementary manner. At least fifty (50) percent of all required landscaping shall be classified as native or drought tolerant. Plant material lists on xeriscape landscaping are available from the planning and zoning department. Existing vegetation must be indicated on the landscape plan. Protection of the existing vegetation during construction is required. All undeveloped portions of the lot shall be so indicated on the plan and shall be protected and remain undisturbed.

- (d)—(e) [Shall remain the same as previously adopted.]

**Sec. 15-128. - Alternative landscape plans.**

[Shall remain the same as previously adopted.]

**Sec. 15-129. - Protection of public infrastructure.**

- (a)—(b) [Shall remain the same as previously adopted.]

- (c) Each landscape plan required or permitted by this chapter shall include a program to eradicate and prevent the reestablishment of prohibited plant species. The community development department may approve a phased eradication program where a prohibited species is required to be removed from the site on which a use is proposed. A phased eradication program shall include the installation of an approved landscape buffer plan meeting the requirements of this section and schedule for the removal of prohibited plants species when the required buffer has matured to the point where the prohibited species may be removed without undue exposure to the adjacent land use.
- (d) An existing mature specimen of a prohibited species may be permitted to be retained upon demonstration of methods proposed to control potential root damage to utilities, public improvements or other structures. A waiver must be obtained pursuant to section ~~15-40~~ 15-37 in order to permit such a mature, prohibited species to be retained.
- (e) Plant species or tree species that are planted within any easement with overhead utilities shall be consistent with the Florida Power and Light's suggested tree list, "Plant the Right Tree in the Right Place," taking into consideration the mature height and spread of the species beneath or adjacent to existing overhead utilities. Where overhead utilities exist, trees shall be maintained so that the mature canopy is a minimum of ten (10) feet from overhead lines. Reference copies of this Florida Power and Light list are available at the community development department.

**Sec. 15-130. - Minimum landscape requirements.**

- (a) Single-family. Landscape plans required by subsection 2-66(b) shall be subject to the requirements of section 15-126. For every single-family lot subject to this chapter, each parcel shall contain a minimum of one (1) tree and ten (10) shrubs per two thousand (2,000) square feet of net lot area or portion thereof. Net lot area shall mean the gross lot area that is not utilized for structures or vehicular use areas. See sections 2-66(b) and 15-71 for exemptions. Three (3) palm trees clustered may be substituted in lieu of one (1) shade tree.
- (b)—(h) [Shall remain the same as previously adopted.]

**Sec. 15-131. - Perimeter landscape buffers required.**

- (a)—(e) [Shall remain the same as previously adopted.]
- (f) *[Openings in buffers.]* Perimeter landscape buffers adjacent to golf courses, lakes and major landscaped open spaces shall have openings in the buffers at intervals to allow for sight penetration from adjacent properties and rights-of-way, subject to review and approval by the planning and zoning department.

**Sec. 15-132. - Requirements for certain setback and yard areas.**

- (a) [Shall remain the same as previously adopted.]
- (b) The property designated by the village zoning code for single-family residential purposes shall be maintained and mown as appropriate for all lawns, flower beds, shrubs, hedges, ground cover and trees located within rights-of-way and swale areas between the subject property and pavement, curbs, sidewalks, or other right-of-way improvements abutting the subject property. No play structure, building, obstruction, and/or material of any kind, whatsoever, is permitted to be placed in any portion of the right-of-way or swale area over which the village has exclusive control as part of its road and drainage right-of-way. Notwithstanding the above, precast concrete traffic buttons or pyramids which shall be white or yellow are allowed to be placed within the swale area a minimum of two (2) feet from the edge of pavement and at a spacing no less than four (4) feet apart. Concrete pyramids shall be eight and one-half (8.5) inches by eight and one-half (8.5) inches at base and maximum of seven (7) inches tall. Concrete buttons shall be a maximum of twelve (12) inches in diameter and six (6) inches tall. In the event it is determined by the planning and zoning director for property designated by the village zoning code for single-family residential purposes that the maintenance and mowing obligations set forth herein create a hardship for the property owner, tenant or occupant, then the maintenance and mowing obligations set forth herein shall not apply to that portion of the right-of-way and swales located between pavement, curbs, sidewalks, and right-of-way improvements and the abutting property line of the subject property subject to a waiver being obtained pursuant to section 15-40 37.
- (c) [Shall remain the same as previously adopted.]

**Sec. 15-133. - Vehicle use areas; parking lot divider strips and islands.**

[Shall remain the same as previously adopted.]

**Sec. 15-134. - Temporary suspension of landscaping requirements.**

- (a) *Initial installation.* The initial installation of landscaping pursuant to the provisions of this chapter may be temporarily suspended in individual cases by the planning and zoning director or his designee in the following two (2) instances:
  - (1)—(2) [Shall remain the same as previously adopted.]
- (b) *Surety bond required.* The suspension of planting shall be conditioned upon the acceptance by the community development department of an adequate guarantee in the form of a performance bond or other surety agreement approved by the community development director and the village attorney in an amount equal to one hundred twenty-five (125) percent of the cost of material and labor of the required landscaping as verified by a competent authority. Landscaping which is suspended subject to this subsection must be installed according to approved plans within one (1) month of notification that the temporary suspension is terminated.

- (c) *Replacement requirement.* Vegetation, which is required to be planted or preserved by this chapter, shall be replaced with equivalent vegetation if it is not in proper condition as determined by the planning and zoning department within one (1) year of issuance of a certificate of occupancy.

**Secs. 15-135—5-140. - Reserved.**

[Shall remain the same as previously adopted.]

**Section 6:** Chapter 15. Landscaping and Vegetation Management. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article VI. Material and Installation Standards. at Division 1. Generally. at Sec. 15-141. General landscape requirements; irrigation; xeriscape. and at Sec. 15-143. Plant material standards. to clarify the responsibilities of the community development department and the planning and zoning department with respect to landscaping and irrigation; providing that Article VI. Material and Installation Standards. shall hereafter read as follows:

**DIVISION 1. - GENERALLY**

**Sec. 15-141. - General landscape requirements; irrigation; xeriscape.**

- (a) *Maintenance.*

(1) [Shall remain the same as previously adopted.]

(2) The general maintenance and pruning of trees shall not include the practice of "hatracking", wherein a top of a tree is flat-cut severing the leader or leaders, making internodal cuts to lateral limbs or pruning a tree by stubbing off mature wood larger than three (3) inches in diameter. This method of pruning is strictly prohibited except for treatment of diseased trees or other necessary pruning to maintain or restore the health and viability of a tree by a certified professional arborist or landscape architect. ~~or unless the trees are on the prohibited vegetation list. This method of pruning is deemed to be irreparable and irreversible in nature. Properties not requiring a development order are exempt from this prohibition.~~

- (b) *Inspection.* The community development department to ensure proper maintenance shall inspect landscaping periodically and shall notify the owner, tenant, or agent in writing of any areas that are not being properly maintained. The owner, tenant, or agent shall, be given a reasonable time period from the time of notification to restore landscape to a healthy condition. If restoration is not accomplished the given time period, a notice to appear before the code enforcement board or special ~~master~~ magistrate will be given to the owner, tenant, or agent.

- (c) *Irrigation and xeriscape.* To further preserve water resources, the use of native plant material in landscape designing through xeriscape techniques is highly encouraged. The water requirements of native plant materials are adjusted to local weather cycles

and result in lower water usage than that of non-native plant materials. Materials on xeriscape landscaping with native plant material are available at the planning and zoning department. Applicants are encouraged to review these materials and incorporate xeriscape design in all proposed landscape plans. The planning and zoning department shall require the installation of at a minimum of fifty (50) percent of plant material to be installed to be of a native, cold, and drought-hardy variety.

- (1) Plans providing sufficient irrigation, as determined by a license landscape architect, professional engineer, or qualified licensed irrigation contractor, for the requirements of the plant material selected, shall be submitted by the applicant for approval by the planning and zoning director.
- ~~(2) Public utility potable water shall not be used for irrigation purposed except for hand watering from hose bibs unless a waiver is obtained from the department upon presentation of sufficient evidence as justification for relief from this subsection.~~
- (3 2) A licensed master plumber, licensed sprinkler/irrigation contractor, or owner/builder with a valid village occupational license, pursuant to a valid and current village permit, shall install all irrigation systems.
- (4 3) Irrigation systems shall be installed and at all times maintained so as to minimize spray upon any public access sidewalk, street, or abutting property.
- (5 4) Prior to the issuance of a certificate of occupancy by the community development department, a complete set of as-built irrigation plans shall be submitted and approved by ~~the~~ said department.
- (6 5) The use of irrigation quality (IQ) effluent water (gray or reused water) shall be encouraged for irrigation purposes where such use may be deemed practical and where such water is available to a site and where such reuse is approved by the appropriate regulatory agencies.
- (7 6) The use of artificial or inorganic plant material (plastic, fabric, etc) to meet the requirements of this chapter is prohibited, including the use of artificial turf and/or ground cover.
- (8 7) After April 4, 2002, new installations of automatic irrigation systems shall be equipped with a water sensing device which will automatically discontinue irrigation during periods of rainfall and such devices must operate and be maintained accordingly. See also section 24-64.

**Sec. 15-142. - Lawns and ground cover.**

- (a) [Shall remain the same as previously adopted.]

(b) All landscape areas not dedicated to the preservation of existing vegetation shall be landscaped with grass, ground cover, mulch, or shrubs. Sand, gravel, shell-rock, or pavement shall not be considered appropriate landscape treatment unless part of xeriscape design approved by the planning and zoning director.

(1)—(3) [Shall remain the same as previously adopted.]

(c) [Shall remain the same as previously adopted.]

**Sec. 15-143. - Plant material standards.**

(a) *Approved plant list.* A list of approved native and nonnative plants (the approved plant list), as amended by the planning and zoning department from time to time, may be available at the planning and zoning department for review by the applicant. In the absence of said list, the decision of the planning and zoning department concerning the allowed installation of plant material, whether required by this chapter or not, shall be binding.

(b) [Shall remain the same as previously adopted.]

(c) *Trees.* A tree planted pursuant to the requirements of this section shall be one which:

(1)—(4) [Shall remain the same as previously adopted.]

(5) A minimum of fifty (50) percent of all trees required to be planted on the site shall belong to native species as set forth in the approved plant list on file with the planning and zoning department.

(6) [Shall remain the same as previously adopted.]

(d) [Shall remain the same as previously adopted.]

(e) *Shrubs and hedges.* A minimum of fifty (50) percent of all shrubs and hedges required to be planted on the site shall belong to the native or drought tolerant species as set forth in the approved plant list on file with the planning and zoning department.

(1)—(3) [Shall remain the same as previously adopted.]

(f) *Grasses.* Species normally grown, as permanent lawns in Palm Beach County shall be planted in grass areas. All grass areas shall be sodded except that certain lawns may be seeded or sprigged in large, open-space areas if approved by the planning and zoning department.

(g)—(k) [Shall remain the same as previously adopted.]

**Figures 15-1 through 15-4**

[Shall remain the same as previously adopted.]

**Secs. 15-144, 15-145. - Reserved.**

[Shall remain the same as previously adopted.]

**DIVISION 2. - FERTILIZER-FRIENDLY USE ORDINANCE**

[Shall remain the same as previously adopted.]

**Section 7:** Each and every other Section and Sub-section of Chapter 15. Landscaping and Vegetation Management. shall remain in full force and effect as previously enacted.

**Section 8:** All Ordinances or parts of Ordinances in conflict be and the same are hereby repealed.

**Section 9:** Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

**Section 10:** Specific authority is hereby granted to codify this Ordinance.

**Section 11:** This Ordinance shall take effect immediately upon passage. However, the Village shall not enforce the ANSI A300 Standards for tree/plant pruning and trimming as provided in Section 15-2 of this Ordinance, or the prohibition on hatracking and tree abuse as provided in Sections 15-2 and 15-141(2) of this Ordinance until June 5, 2019, in order to allow for public education on proper vegetation pruning and trimming methods.

FIRST READING this 1st day of November, 2018.

SECOND AND FINAL READING this 6th day of December, 2018.

VILLAGE OF ROYAL PALM BEACH

\_\_\_\_\_  
MAYOR FRED PINTO

ATTEST:

(Seal)

\_\_\_\_\_  
DIANE DISANTO, VILLAGE CLERK