

BY THE CITY COMMISSION

ORDINANCE NO.: 2005-0866

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF DADE CITY, FLORIDA CREATING A LANDSCAPE ORDINANCE; PROVIDING A TITLE, PURPOSE AND DEFINITIONS; PROVIDING FOR SUBMITTAL OF A LANDSCAPE PLAN FOR ALL MULTIFAMILY, SUBDIVISION OR NON-RESIDENTIAL DEVELOPMENTS; PROVIDING LANDSCAPING STANDARDS AND REQUIRED BUFFERING; PROVIDING FOR EXEMPTIONS FOR EXISTING DEVELOPMENT; PROVIDING FOR MAINTENANCE OF BUFFERED AREAS; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, MODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the City Commission has created the Citizens Advisory Committee for the Land Development Code to review existing land use ordinances and to create new ordinances; and

WHEREAS, the Citizens Advisory Committee has reviewed this Ordinance providing for buffering requirements for various development within the City; and

WHEREAS, this Ordinance is designed to improve the appearance of commercial, industrial and certain multi-family properties and to protect potentially non-compatible abutting uses through the installation and maintenance of landscaping for screening and aesthetic effects.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Dade City, Florida as follows:

**Section 1.** A new landscaping ordinance shall be created as follows:

**A. Title and Purpose.**

This Ordinance shall be known as the "City of Dade City Landscape Code for Commercial, Industrial and Multifamily Properties." The purpose of this Chapter is to improve the appearance of commercial, industrial and certain multifamily property within the City and to protect potentially non-compatible abutting uses through the installation and maintenance of landscaping for screening and aesthetic effects, and to recognize the importance of such landscaping through increased property values, the improvement of air quality and its contribution to the cooling of our environment. Therefore, it is the legislative intent of this Ordinance to protect and preserve the appearance, character, value and safety of the City's urban area and nearby properties, and by so doing, promote the general welfare.

## **B. Definitions.**

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

***Agriculture*** means a land use from which the owner of the land conducts a bona fide agriculture use including, but not limited to, citrus groves, timber production, cattle grazing, etc.

***Commercial nursery or tree farm*** means a licensed plant or tree farm which plants, grows and cultivates plants or trees for the sale or intended sale of such plants and trees to the general public in the ordinary course of the licensee's business.

***Crown cover*** means the percentage of total ground area shaded by tree foliage when the sun is directly overhead.

***Diameter at breast height (DBH)*** means the diameter as measured in inches at four feet six inches above original grade.

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

***Florida Friendly Landscape*** means quality landscapes as provided in Section 373.185, Florida Statutes, as amended, that conserve water, protect the environment, are adaptable to local conditions, and are drought tolerant. The principals of Florida Friendly Landscapes include planting and design, appropriate choice of plants, soil analysis (which may include the use of solid waste compost), efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance.

***Grubbing*** means the effective removal of vegetation, other than defined trees, from the site.

***Historic tree*** means a tree which has been found by the city, county or state, because of its age, type, size or historic association, to be of historic significance and so designated by written resolution.

***Land clearing stage*** means a stage in the construction process in which trees and/or vegetation are removed from the land, i.e., proposed right-of-way excavation and paving, lake and drainage systems excavation; utility clearing, grubbing and pre-building construction projects.

***No tree verification*** means a signed, notarized statement by the owner, or his agent, stating that no trees exist upon the site.

***Overall height (OH)*** means the height, in feet, of a tree measured from the top of the root ball/system to the top of the uppermost foliage branches.

***Person*** means any individual, partnership, corporation, association or other legal entity, including the plural.

**Protective barrier** means a visible physical structure which limits access to and the deposit or stockpiling of materials in a protected area. The protective barrier shall extend to the drip line and run continuously around the designated tree or group of trees unless otherwise instructed by the Building Official, or his designee.

**Shade-canopyTree**, means an evergreen or deciduous tree with the general growth habit of one primary trunk that can be maintained with a clear trunk of not less than six feet and with a spreading branching structure of at least 15 feet and opaque foliage habit such that a reasonably dense shade pattern is provided during peak daylight hours in the late spring, summer and early fall months of the year. For the purposes of this Chapter, palms shall not be considered shade/canopy trees.

**Species of trees** means trees possessing common distinctive characteristics and the ability to reproduce these characteristics.

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

**Protected Tree** shall include the plant species as set forth in Appendix "A", and which are a minimum diameter of four (4) inches at breast height.

**Tree bank** means the storage for future use of trees permitted for removal under the terms of this Chapter and which are donated to the City for its use. Fees collected in lieu of tree replacement, as prescribed herein will also become part of the tree bank to purchase trees for use on City property.

**Tree cluster** means two or more primary tree trunks that are within three feet of one another.

### **C. Landscape Plan and Approval Required.**

1. Prior to the construction, development or expansion of any multi-family, residential subdivision, or non-residential site, the owner/builder shall submit an application for approval of a landscape plan. The landscape plan may be submitted as part of the site plan process and may be combined within the preliminary plan, and will be approved upon a finding by the Development Review Committee that the provisions of this Ordinance have been met.
2. The owner/builder shall submit to the Community Development Department three copies of any plan which shall be in addition to any plans submitted for building permits. Such plan shall be referred to in this Chapter as the "landscape plan".
3. The name and address of the developer/builder and of the designer shall be indicated on the landscape plan. The date of the plan shall also be noted. Such plan shall be drawn to a scale no smaller than one inch equals 40 feet, indicate all dimensions and property lines, provide elevation data and north point, and clearly delineate existing and proposed parking spaces, access aisles, driveways, sidewalks, wheel stops, curbs and other vehicular use controls. The location of curb cuts and zoning on adjacent property, median openings on abutting streets, lighting, irrigation systems, fire hydrants, water check valves, proposed planting areas, decorative or screen walls and fencing, existing trees and related buildings shall also be shown. Planting areas must

indicate the quantity, spacing, size, botanical name and common name of proposed plant material. An exterior elevation and wall section shall be provided for any decorative screen wall indicated on the plan.

**D. Landscape Plan Review Fee.**

At the time of the submittal of the landscape plan, the owner/builder shall pay to the City a review fee in the amount as established by resolution of the City Commission. If any person commences work on the development prior to obtaining the approval of the landscape plan, the owner/builder shall be liable for the penalties prescribed herein for violations of this Ordinance.

**E. Certification of compliance required.**

Upon completion of improvements, a City inspector shall inspect the developed area for compliance with the approved landscape plan and other requirements of this Ordinance. A certificate of compliance must be issued by the inspector before a certificate of occupancy will be issued for any related structure. When occupancy of a related building is desired prior to completion of the landscape plan, a temporary certificate of occupancy may be issued if a financial guarantee in an amount equal to 125% of the improvements required and in a form acceptable to the City Attorney is provided.

**F. Variance.**

Where strict adherence to the provisions of this Chapter is impossible, or impractical to adhere to and the owner/builder can demonstrate sufficient evidence of hardship other than financial hardship, which is not caused by his own actions, he may apply for a variance from the provisions of this Chapter. Such variance shall be administered in accordance with Section 10.3 of Article X of the zoning code. The application for variance shall clearly and specifically state what adjustment is being requested and the reasons why such adjustment is warranted. Any applicable fee shall be paid upon application for the variance.

**G. General Landscaping Standards.**

Areas required to be landscaped shall conform to and meet the following standards:

1. Landscaping shall consist of, but not be limited to, any of the following or any combination thereof: grass, ground covers, shrubs, vines, hedges, non-living material, shade/canopy trees or palms.
2. Plant materials used in conformance with provisions of this Ordinance shall conform to the standards for Florida No. 1 or better as given in "Grades and Standards for Nursery Plants," Part I, 1963, and Part II, State of Florida, Department of Agriculture, Tallahassee, or equal thereto. Grass sod shall be clean and reasonably free of weeds and noxious pests or diseases. Grass seed shall be delivered to the job site in bags with State Department of Agriculture tags attached indicating the seed growers' compliance with the Department's quality control program. Plant species used shall be appropriate for their designated use and environment and shall promote Florida friendly principals.

(a) *Trees*. Trees shall be of a species recognized by the Florida Division of Forestry as being suitable for successful propagation and growth in the City. At least 50% of all required trees shall be of a native species as recommended in Appendix “B”.

(i). Trees having an average mature spread or crown less than 15 feet may be substituted by a grouping of three of the same so as to create the equivalent of a 15-foot crown spread. Palms shall constitute no more than 25 percent of the required trees. Each grouping of three palms shall be the equivalent of one shade tree.

(ii). Tree species shall have a minimum of two-inch DBH and shall be a minimum of eight feet overall height immediately after planting.

(iii) The tree species as listed in Appendix “C” are considered undesirable due to their growth or habit characteristics and their planting shall be prohibited.

(b) *Shrubs and hedges*. Shrubs shall be a minimum of one and one-half feet in height when measured immediately after planting. Hedges shall be of a species, planted at appropriate spacing and maintained so as to form a continuous, unbroken, solid, visual screen within a maximum of two years after time of planting. No less than fifty percent (50%) of the shrubs and hedges planted shall be of a drought tolerant variety, and may be a species from the list set forth in Appendix “D”.

(c) *Vines*. Vines shall be a minimum of 30 inches in height immediately after planting and may be used in conjunction with fences, screens or walls to meet physical requirements as specified.

(d) *Ground covers*. In the interest of water conservation, ground covers are encouraged to be used in lieu of grass in whole or in part. They shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within 18 months after planting. No less than fifty percent of any ground covers planted shall be of a drought tolerant variety as recommended in Appendix “E”.

(e) *Lawn grass*. Grass areas shall be planted and grown as permanent lawns using varieties that are suitable for the City . Grass may be sodded, plugged, sprigged or seeded, except that solid sod shall be used in swales or other areas subject to erosion and providing that, in areas where other than solid sod or grass seed is used, nursegrass seed shall be sown for immediate effect and protection until coverage is achieved.

## **H. Installation and Maintenance of Landscaping.**

1. All landscaping shall be installed in a sound workmanship like manner and according to accepted good planting procedures with the quality of plant materials as described in this Ordinance. All elements of landscaping shall be installed so as to meet all other applicable ordinances and code requirements. Linear and mass planting beds shall be mulched with a minimum of two inches of organic type mulch such as bark, leaves, or pine needles to decrease soil moisture evaporation. Landscaped areas shall require protection from vehicular encroachment.
2. All height requirements shall be based on the finished grade of the landscaped area.
3. The owner, tenant and/or agent of the property shall be jointly and severally responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris. The responsibility for maintenance as set forth in this section shall include the parkway within right-of-way areas outside the property line contiguous to the site.
4. All landscaped areas other than turf grass (lawns), shall be required to provide an automatically timed and controlled, permanent underground irrigation system for all new site development subsequent to the adoption of this Ordinance. Trees, hedges, shrubs, vines and ground covers planted in individual, lineal or mass configurations shall be irrigated by micro-irrigation or similar means in the interest of conserving the public's diminishing water resources. All irrigation shall comply with FIS standards.
5. Failure of the owner or tenant of the property to maintain the premises in good condition as set forth in this section shall make him liable for all penalties as may be lawfully imposed.
6. All portions of a development parcel not improved shall be landscaped or grassed, except for areas where future development is planned, which areas may be seeded.
7. Trees planted to meet the provisions of this Ordinance may be used to meet tree replacement standards as required by this Ordinance.

## **I. Required Landscape Buffering.**

1. Where development is proposed, a landscape buffer (vegetation or non-living) shall be required along the perimeter of the property adjacent to incompatible zoning districts, uses, or activities. Such buffers shall be appropriate for the intensity of the proposed development.
2. Buffers comprised of living material shall be designed to be seventy-five percent (75%) or more opaque within one (1) year of installation, and shall be a minimum of six (6) feet high at installation.
3. Appropriate nonliving buffers may include decorative masonry walls, pre-treated wood fences, or berms installed at a minimum height of six (6) feet.

4. Rear lot lines of residential developments shall be screened from collector or arterial rights-of-way, and shall provide a minimum buffer of five (5) feet in width measured at a right angle from the property line.
5. Landscaping within public rights-of-way must be approved by the City Engineer or his designee where landscaping other than sod is proposed. A City right-of-way use permit shall be required.
6. Refuse collection areas for nonresidential development must be screened from view by a nonliving visual buffer at least six (6) feet in height.
7. In all zoning districts where drainage areas abut road rights-of-way excluding the Open Use Agricultural District, said drainage areas shall be, at a minimum, sodded to the pond bottom.
8. Parking areas or vehicular use areas shall be separated from public rights-of-way by a landscape buffer a minimum of five (5) feet in width measured at a right angle from the public right-of-way line.
9. Areas provided for parking in non-residential and multi-family districts must be landscaped pursuant to the following requirements:
  - (a) *General:* An area or a combination of areas, equal to ten percent (10%) of the total vehicular use area shall be devoted to interior landscaping. Any perimeter landscaping provided in excess of that required may be counted as part of the interior landscaping requirement. Landscaping adjacent to a structure or structures on the same parcel of land, which serves to beautify the vehicular use area and implements the purpose and intent of this Chapter may also be counted toward meeting the interior landscaping requirements. Such credit may not exceed twenty-five percent (25%) of the total required interior landscaping, and shall be reviewed by the Development Review Committee for compliance with the purpose and intent of this Chapter. Such landscaped areas shall be located in such a manner so as to divide and break up the visual and expanse of paving, to prevent and discourage cross travel, and to provide well dispersed tree canopy shading. A combination of the following interior landscaping elements shall be counted as part of the interior landscaping requirements where applicable:
    - (i) *Terminal islands.* Contiguous rows of ten (10) or more parking spaces shall be terminated on both ends by landscaped islands which measure an average of not less than five (5) feet in width and extend the entire length of the parking space(s). At least one (1) tree or grouping shall be planted on such island.
    - (ii) *Interior islands.* Interior landscaped islands which measure an average of not less than five (5) feet in width and extend the length of a parking space shall be placed within rows of contiguous parking spaces so that there is at least one (1) interior island for every fifteen (15) parking spaces or major portion thereof within the row. These islands shall be placed at intervals of not less than six (6) nor more than eighteen (18) spaces. At least one (1) tree or grouping shall be planted on every interior island. Interior islands need not be placed directly opposite each other when in abutting parking rows.

*(iii) Additional interior landscaping requirements.*

(a) There shall be a minimum of one (1) tree planted for each separate planter installed in the vehicular use area, but the total number of trees shall not be less than one (1) for each two hundred (200) square feet or fraction thereof of required interior landscaped area.

(b) In vehicular use areas where the strict application of this section will seriously limit the function of such area, the required landscaping may be relocated near the perimeter of the paved area, including such perimeters which may be adjacent to a building on the site. Such relocated landscaping shall be in addition to the perimeter landscaping requirements.

(c) The front of a vehicle may encroach upon any interior landscaped area when such area is at least three and one-half (3.5) feet in depth per abutting parking space and protected by wheel stops that are anchored and placed within the confines of a parking area or curbing. Two (2) feet of such interior landscaped area may be part of the required depth of each abutting parking space.

**J. Exemptions.**

The provisions of this section shall not be applicable in the following situations:

1. When a property line abuts a dedicated alley;
2. Where a proposed parking area or other vehicular use area abuts an existing hedge, wall or other durable landscape barrier on an abutting property, such existing barrier may be used to satisfy the landscape requirements of this Ordinance, provided that such existing landscaping meets all applicable standards of this Ordinance and protection against vehicular encroachment is provided for hedges or other vegetation; and
3. Where the abutting property is zoned or used for nonresidential uses, only the tree provision with its planting area as prescribed in this subdivision shall be required. The number of trees shall be one tree for every 50 linear feet or fraction thereof spaced not less than 45 feet nor more than 55 feet apart, but all perimeter requirements shall apply within the front setback area.

**K. Unobstructed visibility at intersections.**

Where a vehicular access way intersects a public road right-of-way, or where two (2) public road rights-of-way intersect, vegetation, structures, or nonliving visual buffers shall not be located so as to interfere with the clear site triangle as defined in this Code.

**L. Credit for existing plant material.**

In instances where healthy plant material exists on a site prior to its development in part or in whole for the purposes of off-street parking or other vehicular use areas, the application of the landscape standards of this subdivision may be adjusted to allow credit for such plant material if such an adjustment is in keeping with and will preserve the intent of this Ordinance.

**M. Existing developed areas.**

Existing developed areas not meeting the requirements contained in this Ordinance shall be brought into compliance according to the following:

1. When the vehicular use area is significantly altered or expanded. This does not include re-striping, resealing, or resurfacing of lots and/or driveways where no remodeling or reconstruction is done.
2. When an existing industrial or non-residential structure is redeveloped, remodeled, or renovated by more than twenty-five percent (25%) of the Property Appraiser's appraised value of the existing parcel excluding costs for demolition and repaving.

**Section 2. Repealer**

All provisions of the Dade City Code of Ordinances, as amended, and ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any conflict.

**Section 3. Modification.**

It is the intent of the City Commission that the provisions of this ordinance may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the ordinance adopted by the Commission.

**Section 4. Severability.**

It is declared to be the intent of the City Commission of the City of Dade City, Florida, that if any section, subsection, sentence, clause, or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provisions and shall not be affected by such holding.

**Section 5. Inclusion in Code.**

It is the intent of the City Commission that the provisions of this Ordinance shall become and be made a part of the Dade City Land Development Code, and that the sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

**Section 6.    Effective Date.**

This Ordinance shall take effect upon adoption.

The above ordinance was read and approved upon first reading this 14<sup>th</sup> day of December, 2004.

ATTEST:

CITY OF DADE CITY, FLORIDA

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James D. Class, City Clerk

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P. Hutchison Brock, II, Mayor

The above ordinance was read and public hearings held on the 11th day of January, 2005 and the 25th day of January, 2005, and adopted on the 8th day of February, 2005.

ATTEST:

CITY OF DADE CITY, FLORIDA

\_\_\_\_\_  
James D. Class, City Clerk

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P. Hutchison Brock, II, Mayor

Approved as to Legal Form and Content

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Karla S. Owens, City Attorney