

MODEL LANDSCAPE ORDINANCE REQUIRING THE USE AND PRESERVATION OF APPROPRIATE NATIVE VEGETATION.



Passion flower, incense (Passiflora x 'Incense')

Area IV Water Conservation Committee

Represented by:

Seminole Soil and Water Conservation District
Lake Soil and Water Conservation District
Volusia Soil and Water Conservation District

LETTER OF INTRODUCTION

In 2008, appointed board members of Volusia, Seminole and Lake Soil and Water Conservation Districts began monthly meetings as the Area IV Water Conservation Committee (AIVWCC). The committee utilized the Florida Native Plant Society's Model Native Plant Ordinance and combined that model ordinance with its own research on ordinances throughout the State of Florida and outside of Florida to create the Area IV Water Conservation Committee's **MODEL LANDSCAPE ORDINANCE REQUIRING THE USE AND PRESERVATION OF APPROPRIATE NATIVE VEGETATION.**

WHY A NATIVE LANDSCAPE ORDINANCE?

Ignites a positive agriculture economy by providing a guaranteed customer base

Ensures increased water conservation

Lessens fertilizer usage resulting in less polluted run-off and better compliance with the Clean Water Act

Provides a food source for native wildlife

Keeps unique community beauty and character thereby inspiring community pride

Attracts a broader tourist base

SYNOPSIS

Applies to all newly developed and renovated public, commercial and private developments

Allows for exemptions including single family homes, bona fide agriculture and community recreation areas

Requires:

A landscape permit from the local Department of Environmental Management prior to obtaining a builder's permit;

On-site surveys by local Department of Environmental Management and landowner;

Submittal of a Landscape Plan by Landowner;

Landscaping with one hundred percent appropriate native canopy trees;

Seventy-percent appropriate native understory;

Preservation of existing priority native plant habitat;

Protective buffers;

Diversity in landscaping;

Removal of nuisance non-native plants;

Management plan for restored habitat, priority natural areas, buffers and permanent conservation;

Education of residential subdivisions;

The Department of Environmental Management to conduct Native Plant Community Certification courses;

Landscape designers, landscape architect, irrigation contractors and landscape contractors to be certified by the Department of Environmental Management.

Offers incentives for single-family homes, planting with one hundred percent appropriate native plants, planting with endangered and threatened plants and restoration of native habitat.

Creates a Landscape Advisory Committee

Creates a Native Plant Trust Fund

Allows for enforcement and appeal

The AIVWCC offers this model ordinance to the communities of Florida. We encourage those communities to promote and utilize the ordinance for the public good.

Tim Brodeur, for Seminole Soil and Water Conservation District

Nadine Foley for Lake Soil and Water Conservation District

Michele Moen for Volusia Soil and Water Conservation District

**LANDSCAPE ORDINANCE
REQUIRING THE USE AND PRESERVATION OF APPROPRIATE NATIVE VEGETATION**

ORDINANCE NO ____

AN ORDINANCE OF THE COMMUNITY OF _____, FLORIDA ("Community") TO ADOPT NEW LANDSCAPE REGULATIONS FOR THE PURPOSE OF MAINTAINING EXISTING INDIGENOUS NATIVE PLANT COMMUNITIES, REMOVING AND PREVENTING INVASIVES AND LANDSCAPING WITH DIVERSE APPROPRIATE NATIVE PLANTS.

BE IT ENACTED BY THE PEOPLE OF THE COMMUNITY OF _____

Sec. 1 Title.

This chapter shall be known and may be cited as "Community of _____ Landscape Ordinance Requiring the Use and Preservation of Appropriate Native Vegetation."

Sec. 2 Purpose and Intent.

The purpose of these regulations is to establish minimum standards for the design, installation, and maintenance of landscaped areas and the management of preservation areas prior to obtaining a building permit. These regulations require the use of appropriate native vegetation and ensure the preservation of existing native communities on site. The Community recognizes the significant benefits to the quality of life and economic prosperity of the community through establishing and protecting appropriate native vegetation and, therefore, the necessity to maximize the use of appropriate native vegetation in all public, private, Community roadways and medians and commercial landscaped areas within the Community. It is the intent of this ordinance that these minimum landscape requirements be incorporated to promote the public health, safety and welfare through:

- (1) Protecting appropriate native vegetation
- (2) Maintaining, creating and restoring unique community identities
- (3) Microhabitats in urban areas for the conservation of wildlife by establishing new wildlife habitat and maintaining existing wildlife habitat
- (4) Creating larger, more connected plant populations, helping ensure the future of native plant species by increasing their ability to migrate in response to changes in climate
- (5) Endorsing agricultural economic opportunities through native plant and native seed production
- (6) Promoting ecotourism
- (7) Keeping healthy soils
- (8) Conserving precious water resources by promoting water-efficient landscaping through the use of appropriate native plants, which, once established, typically require much less water than other species
- (9) Reducing the need for use of chemical fertilizers and pesticides to maintain landscaping
- (10) Reducing the negative impacts of landscape maintenance on local air quality
- (11) Reducing the negative impacts on the land, such as erosion, soil depletion, and damage by invasive plants as examples, from the use of inappropriate vegetation and poorly planned landscaping
- (12) Reducing the long term negative impacts of storm water runoff and enhancing water quality through reduction of nutrient loading and improved adsorption of contaminants
- (13) Reducing the financial costs of landscape maintenance
- (14) Improving flood control

- (15) Protecting populations of rare, threatened and endangered native plants and the local species that are dependent on them
- (16) Increasing understanding and appreciation of our local natural eco systems and species through education and training

Sec. 3 Definitions.

- (a) Appropriate Native Vegetation: Vegetation found in the natural community that is suited to the soil, topography, hydrology, and wildfire risk of a particular site.
- (b) Bona Fide Agriculture: Under Florida Statute 193.461, good faith commercial agricultural use of the land.
- (c) Buffer:
 - 1. An area along some natural feature designated to protect and/or preserve the essential character of such feature and allow it to be maintained in an undisturbed and natural condition;
 - 2. A natural undisturbed portion of a lot, except for approved access which is set aside to achieve 100 percent visual barrier between the use on the lot and adjacent lots and/or uses. A buffer is achieved with keeping or planting with appropriate native vegetation, land area used to visibly separate one use from another through screening and distance, to shield or block noise, light, glare, visual, or other conditions, to block physical passage to non-similar areas, or to reduce air pollution, stormwater runoff, dust, dirt, and litter.
- (d) Caliper: The diameter of a tree trunk (indicated in inches) measured at breast height.
- (e) Clearing: The selective removal of vegetation from a property, whether by cutting or other means.
- (f) Clear-cutting: The indiscriminate and broad removal of trees, shrubs, or undergrowth with the intention of preparing real property for non-agricultural development purposes. This definition shall not include the selective removal of non-native tree and shrub species when the soil is left relatively undisturbed; removal of dead trees; or normal mowing operations.
- (g) Community Garden: A public or community use area intended for the purposes of gardening.
- (h) Community Play Area: Public use areas, including school and athletic fields, composed of predominantly turf grass intended for recreational purposes.
- (i) Cultivar: A variation of a species, one that has been produced through breeding or deliberate selection.
- (j) Department: The local Department of Environmental Management for the Community.
- (k) Development: All structures and other modifications of the natural landscape above and below ground or water, on a particular site, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving or excavating.
- (l) Endangered Plant: Any plant species which is in danger of extinction throughout all or a significant part of its range.
- (m) Healthy Soils: Soil health is the functioning of the soil system for its original native habitat purpose.
- (n) Highly-flammable Plant: A plant species that has characteristics which make it more volatile by encouraging easy ignition and the spread of fire through its foliage from low moisture content, dense dry leaves, needles, grass-like leaves, or volatile resins and oils.

(o) Indigenous Plants: Those species of plants naturally occurring within a specific habitat or biogeographical region prior to significant human impacts.

(p) Invasive Plant: A plant reproducing outside its native range and outside cultivation that disrupts naturally occurring native plant communities by altering structure, composition, natural processes or habitat quality. Invasive plants are those plants recognized on the State of Florida's Noxious Weed and Invasive Plants List.

(q) Land Clearance: Removal of all trees and/or vegetation from the surface.

(r) Land Disturbance Activity: Any activity which may result in soil erosion from water or wind and the movement of sediments into state and local waters or onto lands within the state, including but not limited to clearing, dredging, grading, excavating, transporting, or filling of land but not including agricultural practices such as a family vegetable plot.

(s) Landscaped Area: The entire parcel less the building footprint, driveway, non-irrigated portions of parking lots, hardscapes such as decks and patios, and other non-porous areas. Water features are included in the calculation of landscaped areas.

(t) Landscaping: Any combination of living plants and non-living landscape material (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).

(u) Landscape Category: areas of the Community are divided into landscape categories based upon their similar soil, topography and hydrology. Since lands within one category will have similar soil, topography, and hydrology features, the same species of native plants that are appropriate at one site are likely to be appropriate native plants to all lands within the same landscape category.

(v) Native Plant: those species of plants occurring within the Community boundaries prior to European contact, according to best scientific and historical documentation. More specifically, it includes those species understood as indigenous, occurring in natural associations in habitats that existed prior to significant human impacts and alterations of the landscape.

(w) Natural Community: a distinct and recurring assemblage of populations of plants, animals, fungi and microorganisms naturally associated with each other and their physical environment, as described in the Guide to the Natural Communities of Florida (available from Florida Department of Natural Resources at <http://www.fnai.org/descriptions.cfm>).

(x) Natural Area: an area on a site that contains native plants and that will be undisturbed during development and will remain undisturbed when the property is fully developed. Activities are restricted in perpetuity.

(y) Rare Plant: a scarce plant species that may or may not have been designated with a legally protected status such as "threatened" or "endangered." Some rare plants naturally occur less frequently than other plants, which make the rare plants more susceptible to decline or extinction.

(z) Redevelopment: The redesign or rehabilitation of existing properties.

(aa) Remove: to transport a native plant from the premises on which it has been growing.

(bb) Tree Removal: Any act which causes a tree to die within two years after commission of the act, including but not limited to damage inflicted upon the root system or trunk as a result of:

1. The improper use of machinery on the trees;
2. The storage of materials in or around the trees;
3. Soil compaction;
4. Altering the natural grade to expose the roots or to cover the tree's root system with more than four inches of soil;
5. Pruning judged to be excessive by Community Environmental Management;
6. Paving with concrete, asphalt, or other impervious surface within such proximity as to be harmful to the tree or its root system; and

7. Application of herbicides or defoliates to any trees without first obtaining a Community landscape permit.

(cc) Residential Subdivision: The act of dividing land into pieces to sell or otherwise develop, usually via a plat. The former single piece as a whole is then known as a subdivision.

(dd) Soil and Water Conservation District: Florida's 62 soil and water conservation districts were established in 1937 under Chapter 582 Florida Statutes. Soil and water conservation districts were organized within county boundaries by landowner petition based on a need for soil and water conservation and in the interest of public health, safety, and welfare. A soil and water conservation district so organized constitutes a governmental subdivision of the State of Florida.

(ee) Threatened Plant: Any plant species that is likely to become an endangered plant within the foreseeable future throughout all or a significant portion of its range.

(ff) Tree: A self-supporting woody plant having a single trunk or a multi-trunk of lower branches, growing to a mature height of at least twelve (12) feet.

(gg) Tree Thinning: Selective cutting or thinning of trees for the clear purpose of good forestry management to protect said forest from disease or infestation and in no way shall be construed as clear cutting.

(hh) Turfgrass: Continuous plant coverage consisting of a grass species that is mowed to maintain an established height.

(ii) Waterwise Plants: Plants that can survive on normal rainfall or that require minimal irrigation.

Sec. 4 Landscape Permit Required.

All applicable development, as defined under Section 5 of this ordinance must, prior to receiving a builder's permit, obtain a landscape permit from the local Department of Environmental Management ("Department"). Subsequent to the onsite inspection required under Section 13 of this ordinance, submittal of a Landscape Design and Natural Area(s) Preservation Plan ("Landscape Plan") by Landowner, review of the Landscape Plan by the Landscape Advisory Committee and final approval by the Department, the Department will issue a Landscape Permit to Landowner.

Sec. 5 Applicability and Additions to Existing Development.

This ordinance shall be a minimum standard and shall apply to all newly developed and renovated public, commercial and private developments and land within the jurisdictional boundaries of the Community unless exempt under Section 6 of this ordinance. This ordinance shall also apply to newly landscaped roadways and medians. This ordinance shall also apply to the expansion or renovation of any existing development when the expansion or renovation of the existing development is equal to fifty percent (50%) of the assessed value of the lot improvements according to the Property Appraiser or when the total square footage of a structure is expanded by fifty percent (50%) or greater.

Sec. 6 Exemptions.

The following areas are exempt from this ordinance:

- (1) Community gardens;
- (2) Community recreation areas;
- (3) Non-invasive fruits and vegetable plants on residential properties;
- (4) Golf course play areas;
- (5) Turfgrass in storm water management areas;
- (6) Turfgrass in commercial public rights-of-way;

- (7) Bona fide agricultural lands;
- (8) Scientific and educational purposes;
- (9) Commercial and public botanical gardens;
- (10) Emergency maintenance work such as fire breaks and areas cleared for protection of public health and safety;
- (11) Single-family dwellings are exempt from the requirements of this ordinance except for the requirements set forth in Section 8.

Sec. 7 Public Property.

Public property shall not be exempt from the requirements of this ordinance. The Community shall encourage the use of appropriate native vegetation in all existing landscaped areas, while recognizing that any plant in the proximity of structures may create a wildfire hazard.

Sec. 8 Single-Family Dwelling Units.

Single-family residential dwellings are exempt from the Landscape Plan and Landscape Advisory Committee and all other limitations of this ordinance except:

No Builder's Permit for a single-family residence shall be issued by the Community unless the following conditions have been met:

1. A Builder's sketch of the property including an approximate list of existing trees and their location, a list of invasives and their location, and an on-site inspection by Department, and,
2. A minimum of two (2) appropriate native trees with appropriate native plant understory for Lots 6,000 square feet or less;
3. A minimum of three (3) appropriate native trees with appropriate native plant understory for Lots between 6,001 and 10,000 square feet;
4. A minimum of five (5) appropriate native trees with appropriate native understory for Lots greater than 10,001 square feet. Three (3) appropriate native trees with native understory for each additional acre in excess of one (1) acre, with a maximum number of trees not to exceed fifteen (15) for the total acreage;
5. Landowner may, by written correspondence to Department, apply for an exemption of numbers 2- 4 based on the landowner's keeping of existing trees to meet the provisions of this section.
6. All trees shall be a minimum size of six (6) feet or more than three inches in trunk diameter;
7. One (1) of the required trees shall be planted within ten (10) feet Landward of the right-of-way for Lots less than or equal to one-half acre.

Sec. 8.1 Single-Family Dwelling Units Involvement Encouraged.

Any Landowner desirous of participation in the hitherto exempt sections of this ordinance may do so prior to receipt of a builder's permit, by submitting a proposal to Department setting forth the following:

1. Landscape Builder's sketch or homeowner's sketch to include:
 - A. Irrigation plan
 - B. Existing vegetation, including invasives
 - C. Location of natural areas as set forth in Sec. 14.2(4) of this ordinance

Sec. 8.2 Single-Family Dwelling Review and Approval by Department and Landscape Advisory Committee.

After submittal of proposal to Department for participation in the otherwise exempt portions of this ordinance, the Department and the Landscape Advisory Committee ("Committee") shall review the landowner's proposal and notify Landowner in writing within thirty (30) days of a decline or acceptance.

Sec. 9 Nonnative Invasive Plant Species Public Nuisance Declared.

The Community declares that invasive nonnative species as listed by the most recent publication of Florida Exotic Pest Plant Council's list of invasive plant species are a public nuisance that degrades landscaped and natural areas. The Community shall prohibit the planting of any nonnative invasive plant species in all public and private properties. The Community will require the Landowner to remove any nonnative invasive species that the Community deems to be a public nuisance. The plan shall be safe and expeditious according to the procedures set forth below.

Sec. 9.1 Nonnative Invasive Species Survey Required for New Development.

For all properties required to submit a Landscape Plan pursuant to Section 14, the Landowner or their representative shall include a survey showing the location and species of all nonnative invasives.

Sec. 9.2 Requirement to Correct Public Nuisance.

The method and time frame to correct the public nuisance shall be included as part of the Landscape Plan approved by the Department.

Sec. 9.3 Cost of Removal of Invasives Borne by Landowner.

All costs of the permanent removal of all nonnative invasives shall be borne by Landowner unless otherwise exempt under Sec. 9.4 of this ordinance.

Sec. 9.4 Estimate Cost of Removal Burdensome.

If the estimated cost of removing the invasive nonnative vegetation prohibited by the Community exceeds the estimated cost of the development, then the property owner shall be given three years from completion of the development to remove the invasive nonnative vegetation, and keep the parcel permanently free of such invasive nonnative vegetation as set forth in the Landscape Plan. Estimated costs are subject to verification by the Department Manager, or the manager's designee. The requirement of removal shall not apply to portions of a parcel which are owned by or donated to a bona fide organization dedicated to conservation, and which has a management plan for the removal of such invasive nonnative vegetation.

Sec. 9.5 Community Final Inspection Required.

Following the public nuisance removal deadline set by Department within the Landscape Plan and prior to Department removing the public nuisance designation from the property, Department will conduct a second on site inspection with Landowner.

Sec. 9.6 Failure to Correct.

In the event a Landowner fails to correct the public nuisance within the time allocated by Department in the Landscape Plan, the Department will notice Landowner, by certified mail, of the Failure to Correct. The Failure to Correct Public Nuisance shall include the dates of the on-site inspections, the

names and location of the remaining nonnative invasives giving rise to the notification, a deadline for correction, and guidelines for contesting the notice as outlined in Section 25 of this ordinance.

Sec. 9.7 Fines Assessed.

Failure to meet the deadline set forth in the Failure to Correct Public Nuisance or failure to comply with the findings of the Community government shall result in a Community assessed fine as outlined in Sections 21 and 24 of this ordinance.

Sec. 9.8 Failure to Pay Fines.

Failure to pay fines required by Section 9.7 of this ordinance shall result in a Community lien placed on the property. One year from the filing of the lien in the public records, the Community may foreclose on the property to satisfy the lien.

Sec. 9.9 Limits on Control.

No regulation shall be made by the Community or any person, community, or group which makes the planting, maintenance, or protection of appropriate native vegetation illegal or encourages the removal of appropriate native vegetation, except when deemed necessary for public safety.

Sec. 10 Landscaping Incentives.

Sec. 10.1 Rare, Threatened and Endangered Plants Incentives.

Any landowner or landowner representative submitting, as required under Section 14 of this ordinance, a Landscape Plan including landscaping with appropriate rare, threatened and endangered plants as listed by the Florida Department of Agriculture and Consumer Services Regulated Plant Index and by the most recent printing of University of Florida's Florida-Friendly Plant List, the landowner will be eligible for all or part of the following incentives with eligibility based on the recommendations of the Landscape Advisory Committee as defined in Section 11 of this ordinance and final approval of the Department.

1) A rebate of up to twenty-five percent (25%) from the Community's filing fees; excluding impact fees and considering rebates which may be approved by means of additional community ordinances;

2) Landscape Plan review and approval granted priority review status over existing Landscape Plan submittals which do not include a plan for landscaping with appropriate rare, threatened and endangered plants, landscaping with one hundred percent (100%) native plants, restoring of habitat or permanent conservation easement;

3) PUD or BPUD zoning applications granted priority review status over existing rezoning applications which do not include a plan for landscaping with appropriate rare, threatened and endangered plants, landscaping with one hundred percent (100%) native plants, restoring of habitat, permanent conservation easement;

4) Community signage placed on site naming the landowner and/or landowner representative as a green growth company or landowner;

5) Certificate of Recognition and Appreciation from the Soil and Water Conservation District;

6) Community notice of recognition and appreciation placed with prominence in a local newspaper of the largest distribution.

Sec. 10.2 Appropriate Native Plants Incentives.

Any landowner or landowner representative submitting, as required under Section 14 of this ordinance, a Landscape Plan for landscaping with one hundred percent (100%) appropriate native plants will be eligible for all or part of the following incentives with eligibility based on the recommendations of the Landscape Advisory Committee as defined in Section 11 of this ordinance and final approval of the Department.

1) A rebate of up to twenty-five (25%) from the Community's filing fees; excluding impact fees and considering rebates which may be approved by means of additional community ordinances;

2) Landscape Plan review and approval granted priority review status over existing Landscape Plan submittals which do not include a plan for landscaping with appropriate rare, threatened and endangered plants, landscaping with one hundred percent (100%) native plants, restoring of habitat or permanent conservation easement;

3) Community signage placed on site naming the landowner and/or landowner representative as a green growth company or landowner;

4) Certificate of Recognition and Appreciation from the Soil and Water Conservation District.

5) Community notice of recognition and appreciation placed with prominence in a local newspaper of the largest distribution.

Sec. 10.3 Restoration of Native Habitat Incentives.

1) PUD or BPUD zoning applications granted priority review status over existing rezoning applications which do not include a plan for landscaping with appropriate rare, threatened and endangered plants, landscaping with one hundred percent (100%) native plants, restoring of habitat or permanent conservation easement;

2) Landscape Plan review and approval granted priority review status over existing Landscape Plan submittals which do not include a plan for landscaping with appropriate rare, threatened and endangered plants, landscaping with one hundred percent (100%) native plants, restoring of habitat or permanent conservation easement;

3) Community signage placed on site naming the landowner and/or landowner representative as a green growth company or landowner;

4) Certificate of Recognition and Appreciation from the Soil and Water Conservation District.

5) Community notice of recognition and appreciation placed with prominence in a local newspaper of the largest distribution;

6) A rebate of up to twenty-five percent (25%) from the Community's PUD filing fee following recommendations by the Landscape Advisory Committee and final on-site inspection and approval by Department and considering rebates which may be approved by means of additional community ordinances;

7) A rebate of up to twenty-five percent (25%) of the development plan review fee following recommendations by the Landscape Advisory Committee and final on-site inspection and approval by Department and considering rebates which may be approved by means of additional community ordinances;

8) Community awarded temporary tax credit of ten percent (10%) per year for three years for a minimum of three (3) acres native habitat restored considering rebates which may be approved by means of additional community ordinances;

9) Community awarded temporary tax credit of twenty percent (20%) per year for five years for landowner native habitat restored acres of over one hundred (100) acres considering rebates which may be approved by means of additional community ordinances;

10) Community cost share incentives of up to fifty percent (50%) for any native habitat restored acres over one hundred (100) acres with final determination to be based on recommendations of Landscape Advisory Committee, availability of matching grant monies and final approval of Community Environmental Management;

11) A Community Ombudsman with the responsibility of overseeing a smooth and expedient restoration and review process.

All temporary tax credits begin following a mandatory on-site inspection and approval by Department and Property Appraiser's Office.

Sec. 10.3.1 Management Plan Required for Restored Habitat.

(1) Any landowner desirous of retaining fee simple ownership of restored native habitat must enter into a Community Management Plan according to Section 14.7 of this ordinance.

(2) Any landowner desirous of retaining ownership of the restored native habitat but relinquishes all development rights to the restored native habitat, must enter into a Community Management Plan according to Section 14.7 of this ordinance.

Sec. 10.4 Permanent Conservation Easement Incentives.

In the event a Landowner wishes to place native habitat in need of restoration, including the removal of invasive nonnative species, into a permanent Community conservation easement, he may be considered by the Community for exemption from Section 10.3.1 of this ordinance.

In the event a landowner wishes to place native habitat fully restored by landowner or in partnership with landowner and the Community into a Community permanent conservation easement he may request a reappraisal from the Property Appraiser's Office on the restored habitat with assistance from a Community appointed Ombudsman.

Sec. 10.5 Single Family Homes Incentives.

Single family homes are exempt from the Incentives portion of this ordinance except that they may make application as outlined in Section 8 of this ordinance to the Department and the Landscape Advisory Committee which may consider the applications based on environmental and waterwise values.

Sec. 11 Landscape Advisory Committee Purpose.

A Landscape Advisory Committee is created for the purposes of promoting the protection of existing native vegetation, diversity of appropriate native landscaping, soil health, and to make recommendations for the design of a landscape plan benefiting the Community.

Sec. 11. 1 Landscape Advisory Committee Membership.

The Landscape Advisory Committee will comprise seven members. Each member will be appointed as follows:

Appointee by the local Native Plant Society Chapter, if available. If not available, appointee by the Florida Native Plant Society Appointee by the local Soil and Water Conservation District, and, Appointee of a local master gardener by the county extension offices.

The Department will select the four remaining appointees from the following list:

Local nursery grower
Local landscape architect
Local certified landscape designer
Citizen from the local builders' association
Community staff person knowledgeable of local ecosystems and native plants
Local master naturalist
Local botanist or plant ecologist
Division of Forestry representative

Sec. 11.2 Landscape Advisory Committee Meetings.

All meetings will:

Be open to the public and will be publically noticed by the Department

Require a quorum

Be scheduled by the Department.

The Department will consider committee review expediency in the scheduling of the meetings. All meetings will be facilitated by the Department.

The Department will determine the number of applications to be reviewed at each meeting allowing for appropriate time for the Committee to expediently submit its findings to the Department.

The Committee will meet only once on each application unless the Committee finds there is a need for clarification and more information from the Landowner in which case the Committee will submit the written request for a second meeting along with the request for clarification and further information to the Department.

Sec. 11.3 Landscape Advisory Committee Final Recommendations.

The Committee will submit its recommendations on Landscape Plan applications to the Department in a timely manner. The recommendations shall either approve the Landscape Plan as is or return the Landscape Plan with written recommendations in furtherance of the purpose of this ordinance.

Sec. 12 Education.

The Community recognizes that education of its citizens on the benefits of appropriate native vegetation and the need for the use of more efficient landscaping practices is essential in order to protect the Community's most valuable resources, including water, wildlife, and native plants.

Sec. 12.1 Public Workshops Required.

To increase public awareness on the requirements of this ordinance, promote the protection of native plants, and educate its citizens on local native ecosystems and appropriate native plants, the Department will conduct, at minimum, three public workshops every year. The costs of the workshops will be borne by the Community. The Department may utilize the local Soil and Water Conservation District to facilitate the workshops.

Sec. 12.2 Native Plant Certification Required.

The Department will formulate and schedule Native Plant Community Certification courses. It will be a requirement of this ordinance that any landscape designer, landscape architect, irrigation contractor and landscape contractor be certified by the Community prior to beginning work on any Landscape Plan required under this ordinance. The costs of the courses will be funded through the certification fee process.

Sec. 12.3 Residential Subdivision Education Required.

The Community, through the Department, will also design and supply each new subdivision homeowner with educational materials on the subdivision Landscape Plan, including information on the appropriate native plants, soils, wildlife habitat, fertilizers, and water usage within their subdivision. The costs for the printing of the educational materials will be borne by the Landowner and will be included in the cost of the Landscape Permit.

Sec. 13 Site Inspection Required.

No construction shall begin, no land shall be cleared and no land clearing permit issued until a Department site inspection has been completed by a Department professional knowledgeable of the local native vegetation and supporting soils, a Landscape Design and Natural Areas Preservation Plan ("Landscape Plan") has been submitted by the Landowner to Department and a completed review by the Landscape Advisory Committee has been acquired.

Sec. 14 Landscape Design and Natural Area(s) Plan Required.

After site inspection is completed by Department and findings submitted to Landowner, a Landscape Design and Natural Area(s) Plan ("Landscape Plan") showing proposed landscape and preservation design shall be submitted by the Landowner for review and approval by the Department and Landscape Committee. Such plan shall be required for all applicable development as referenced in Section 5 of this ordinance. The Landscape Plan shall be prepared by either a Florida registered landscape architect or a Florida certified landscape designer both licensed by the Community as native plant certified as referenced in Section 12.2 of this ordinance.

Landscape plans shall include and indicate the following:

- (a) Dimensions of the property;
- (b) Location, species, and size of all existing trees;
- (c) Description of existing understory species and size;
- (d) Description of quality of existing trees and understory;

- (e) Location and species of all invasives as defined by the most recent Florida Exotic Pest Plant Council List of Invasive Plant Species;
- (f) Description of existing soil types as defined by the Natural Resources Conservation Service (NRCS);
- (g) 100 Year Flood Plain boundaries as defined by FEMA;
- (h) Location of all existing structures, freestanding signs, parking areas, drives, vehicular use areas and other improvements to remain on the property;
- (i) Location of proposed new structures, signs, parking areas, drives, vehicular use areas and any other alternations to the property;
- (j) Location of existing water bodies and proposed water bodies location;
- (k) Location of overhead powerlines and adjacent rights-of-way and any other easements;
- (l) Proposed location of species (with identification if native or nonnative), size, and quantity of all proposed landscape materials utilizing the most recent publication of University of Florida Yards and Neighborhoods Florida-Friendly Plant List;
- (m) Proposed location of required buffers under Sections 14.3 and 14.4. of this ordinance;
- (n) Proposed alterations to existing soils referring to Section 15 of this ordinance;
- (o) Proposed removal of any existing vegetation;
- (p) Proposed types of construction devices and procedures used to protect soils and native trees and vegetation planned for conservation;
- (q) Location and type of irrigation system ;
- (r) Proposed mulching materials, fertilization and installation landscaping details, and such other information as needed and requested by Department and Landscape Advisory Committee;
- (s) Management Plan for restored habitat as defined under Section 14.7 of this ordinance and Priority Natural Areas as defined under Sec. 14.2(4) of this ordinance and natural buffers defined under Section 14.3 and 14.4 of this ordinance.

SEC. 14.1 Protection of Rare, Threatened and Endangered Native Plants Required as Part of Landscape Plan.

Department survey required for endangered and potentially endangered fauna and flora.

(1) Before any property is cleared the property shall be surveyed by Department for listed endangered or potentially endangered fauna or flora. The Department may utilize the Florida Native Plant Society and its local chapters for the purposes of the survey. Listed species shall be those appearing in the most recent edition of "Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida" published by the Florida Game and Fresh Water Fish Commission (GFC).

(2) Once the survey is conducted and listed species that occur on-site have been tagged and documented, the Landscape Plan shall:

(a) Incorporate a development design to include the preservation of listed rare, threatened and endangered plant communities; and,

(b) Allow for relocation of listed species to locations on or off-site conservation areas conducive for supporting such species. The Landowner shall be responsible for obtaining the necessary permit from the Florida Department of Agriculture and Consumer Services. The Department and Landowner may utilize the Florida Native Plant Society and its local chapters and the local Soil and Water Conservation District to assist in the reasonable location of rare, threatened and endangered native plants. Reasonable relocation includes techniques such as root pruning, tree spades and other similar techniques. Relocation techniques shall be reviewed and approved by the Department prior to being used for any relocation of native vegetation both on and off the property.

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

SEC 14.2 Natural Area(s) Preservation Required as Part of Landscape Plan.

- (1) No native trees over six feet in height, or more than three inches in trunk diameter and contiguous native groundcover or shrub plants will be removed from the site without a tree removal permit from Department as outlined in Section 18 of this ordinance.
- (2) No removal of any wetland trees of any size.
- (3) No removal of xeric oak community vegetation or scrub community vegetation 2 feet and over.
- (4) Priority Natural Area(s). The following vegetation and specific areas are considered priority for on-site retention and protection within the site development, and grading shall leave this vegetation and these specific areas undisturbed unless the Department determines disturbance unavoidable in the interests of the public health and welfare.
 - (a) 100-year floodplain
 - (b) Florida scrub
 - (c) Stream buffers
 - (d) Wetlands
 - (e) Trees and other native vegetation defined on state, federal and Community lists as rare, threatened or endangered
 - (f) Corridors for wildlife movement;
 - (g) Other habitat for threatened, endangered, and species of special concern or wildlife habitat the Department considers a locally unique ecosystem.

SEC. 14.3 Native Vegetation Buffers Required as Part of the Landscape Plan.

The Community recognizes the importance of native vegetation buffers for the purposes of erosion control, water conservation, water and air filtration, noise buffer and native beautification.

A non-elevated buffer of undisturbed Florida native vegetation preserved on site, or a buffer planted to re-create native uplands is preferable over berms.

Native buffers shall be conserved as common areas and shall be depicted as such on the Landscape Plan.

All buffers will be included within the Preservation Management Plan requirement outlined in Section 14.7 of this ordinance.

Sec. 14.4 Natural Area Vegetation Buffers Required as Part of the Landscape Plan.

The threshold for natural area preservation vegetation buffers shall be five (5) acres. An appropriate native vegetated upland buffer zone shall be maintained along the perimeter of the natural area preservation areas outlined in Section 14.2(4) of this ordinance and shall be required as part of the Landscape Plan for natural areas preservation under Section 14.7 of this Ordinance. In cases where the buffer area is contiguous with an existing conservation area, the dimensions of the conservation area may be credited towards the minimum buffer required. The minimum buffer width for natural areas preservation areas shall be 25 feet. The minimum buffer width for natural priority areas shall be 50 feet.

No turf grass is allowed within the forest preservation vegetation buffer.

New vegetation allowed in the buffer shall be based on the native, predevelopment plant community.

Permissible uses within the forest preservation native vegetation buffers are footpaths for walking. Footpaths must be natural or made from a pervious material.

SEC 14.5 Diversity of Appropriate Native Plants Required as Part of the Landscape Plan.

It is the purpose and intent of this section to promote the preservation and restoration of diverse ecological communities to maintain viable populations of all native plant and animal species and representative stands of each habitat type in the Community.

Sec. 14.6 Minimum Landscape Requirements Required as Part of the Landscape Plan.

All Landscape Plan applicants shall utilize the most recent version University of Florida's Florida-Friendly Plant list in the designing, complete installing and restoration of all elements of the Landscape Plan.

The source of all plant material, other than existing native vegetation at the site, shall be from plant nurseries or from plants relocated on site.

Sec. 14.6.1 Percentage and Size Requirements for Newly Planted Appropriate Native Plants.

One hundred percent (100%) native canopy trees and 75% all other trees, including palms.

At least seventy-five percent (75%) of all shrubs shall be an appropriate native species.

At least seventy-five percent (75%) of all groundcover, including grasses, shall be an appropriate native species.

At least seventy-five percent (75%) of all vines shall be an appropriate native species.

All native trees shall be a minimum of eight (8) feet in height when measured immediately after planting.

All native shrubs shall be a minimum of two (2) feet in height when measured immediately after planting.

Ten (10) protected saplings will equal one (1) six (6) foot tree.

Saplings will be used in buffer areas defined in Sections 14.3 and 14.4 only and protected as defined in Management Plan, Section 14.7.

The Department may waive the size and minimum standard specifications if the applicant can demonstrate that current market conditions are such that appropriate native plants meeting these specifications are not readily available.

The Department may choose to exempt the size requirements for landscaping with rare, threatened and endangered plants.

Sec. 14.7 Preservation Management Plan Required as Part of the Landscape Plan.

A Preservation Management Plan ("Management Plan") shall be required for all buffers required under Sections 14.3 and 14.4 of this ordinance, for all restored habitat under Section 10.3 of this ordinance and for all priority natural areas outlined under Sec. 14.2(4) of this ordinance.

A Management Plan shall be prepared by Landowner as part of the Landscape Plan and submitted to Department for approval unless exempt under Section 6 of this ordinance.

Ownership and Management of Preservation Management Area(s).

- (1) Ownership of Preservation Management Area(s). The Landowner must identify the owner of the preservation area(s) who is responsible for maintaining the areas. If a Homeowners Association is the owner, membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The responsibility for maintaining the preservation areas shall be borne by the owner.
- (2) Landowner shall submit a Preservation Plan that:
 - a. Allocates responsibility and guidelines for the maintenance and operation of the preservation management area(s);
 - b. Estimates the costs and staffing requirements needed for maintenance for the preservation management area(s) and outlines the means by which such funding will be obtained or provided;
 - c. Provides that any changes to the Preservation Plan be approved by the Department, and;
 - d. Provides for enforcement of the Preservation Plan.
- (3) In the event the party responsible for maintenance of the preservation management area(s) fails to maintain all or any portion areas in the condition at the time of issuance of builder's permit, Community may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the owner, Homeowner's Association, or to the individual property owners that make up the Homeowner's Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

Sec. 14.7.1 Legal Instrument for Permanent Protection.

(1) The Open Space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:

a. A permanent conservation easement in favor of either:

(i) A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or

(ii) A governmental entity with an interest in pursuing goals compatible with the purposes of this ordinance. If the entity accepting the easement is not the Community government, then a third right of enforcement favoring the Community shall be included in the easement;

b. A permanent restrictive covenant for conservation purposes in favor of a governmental entity; or,

c. An equivalent legal tool that provides permanent protection, if approved by the Department.

(2) The instrument for permanent protection shall include clear restrictions on the use of the natural area and buffers. These restrictions shall include all restrictions contained in this article.

Sec. 15 Soil additions.

Any soil additions proposed by Landowner shall be detailed on the Landscape Plan and subject to Department approval. All new soil shall be similar to the existing soil in pH, texture, permeability and other characteristics.

Sec. 16 Irrigation.

All irrigation systems shall include a rain sensor or soil sensor device which will override the irrigation cycle of the system when adequate rainfall has occurred.

Sec. 17 Mulch and ground Covers.

The use of cypress mulch is prohibited.

Sec. 18 Native Plant and Tree Removal Permit.

Applications for native plant and tree removal shall be submitted to the Department.

After the completion of Department site inspection as required under Section 13 of this ordinance and after submittal of a Landscape Plan as required by Section 14 of this ordinance and after review and findings by the Landscape Advisory Committee as required under Section 11.3 and prior to any Community permitting, the Department may determine the removal of existing native plants and trees as unavoidable. In such circumstances, the Plan or revised Plan will outline:

- 1) The proposed removal of existing native plants and trees including their location and species;
- 2) Why the existing native vegetation must be disturbed;
- 3) Require the Landowner to replace the removed native plants and trees with specific appropriate native trees and contiguous native vegetation.

If the Department determines it is not feasible for a landowner to replace removed native plants, then the landowner must pay a fee to the Community Native Tree and Plant Trust Fund as outlined in Section 19 of this ordinance. Funds from the Community Native Plant Trust Fund shall be used to purchase appropriate native trees and vegetation for planting on public property within the Community or to fund landscape enforcement and educational activities required by this ordinance or as part of a Preservation Plan covered in Section 14.7 of this ordinance.

Sec. 18.1 Denial of Application for Native Plant and Tree Removal Permits.

If the Department denies an application for removal of native plants, it shall explain the grounds for denial of the application. Applicants may appeal the decision under Sections 23 and 25 of this ordinance.

Sec. 19 Community Native Plant Trust Fund.

There is hereby created a Community Native Plant Trust Fund, a separate fund of the Community that shall receive all funds collected under this ordinance and which shall be received and administered by the Department for purposes outlined in Section 18 of this ordinance.

Sec. 20 Violation.

It shall be unlawful for the applicant Landowner or any of his representatives to directly or indirectly cut down, destroy, remove, top or move any native vegetation without first submitting a Landscape Plan under Section 14 of this ordinance and receiving review of the Plan by the Landscape Advisory Committee from the Department and obtainment of a Native Plant Removal Permit.

Sec. 21 Penalty.

Landowners must meet compensation requirements before the issuance of a building permit, clearing permit or certificate of occupancy.

Payments to the Community Native Plant Trust Fund will equal the cost of a four-to-one replacement. The total penalty shall be determined by the Department and submitted to Landowner for payment to the Community Native Tree and Plant Trust Fund.

Sec. 22 Financial Assurances.

When deemed necessary by Department, appropriate security or guarantees shall be provided by the applicant to ensure proper implementation of the Landscape Plan as approved. The guarantee may be in the form of a performance bond, trust fund, irrevocable letter of credit, or other financial assurance mechanisms acceptable and payable to the Community. The amount of financial assurances shall be determined by the Department or its representative.

When the appropriate local government staff determines that under the particular circumstances planting of trees or vegetation would not be prudent before a certificate of occupancy or certificate of completion is issued, the applicant may post a performance bond with the Community Council, in a form acceptable to the Council. The performance bond shall be in an amount no less than 125 percent of the estimated cost of all trees and vegetation to be planted, plus labor. The performance bond shall be received and accepted by the Community prior to the issuance of the certificate of occupancy or certificate of completion

Sec. 23 Variance Procedures.

(1) **Petition.** Any landowner whose property is regulated by this ordinance may petition the Department for a variance from the requirements of this ordinance. The petition must include:

- (a) The name and address of the applicant;
- (b) A detailed description of the exigent circumstances that warrant variance from the requirements;
- (c) A proposed landscape plan; and
- (d) Any other relevant information that staff requests of the applicant.

(2) **Decision.** Within thirty (30) days of receiving the petition, the Department will notify the landowner in writing of its decision to either approve or deny the petition.

- (3) **Appeal.** The landowner may appeal a denial of the variance to the Community by submitting a written notice of appeal to the Community legal department and copied to Department within thirty (30) days after the date of determination by the Department.

Sec. 24 Enforcement.

Implementation and enforcement of this ordinance by Department shall consist of:

- (1) **Notice of Violation.** If any provision of this ordinance is violated at any time, the Department shall issue a written notice of the violation to the Landowner. The Landowner shall have thirty (30) days within which to correct the violation before any punitive action is taken.
- (2) **Fines.** If any person who violates the provisions of this ordinance has not corrected the violation within thirty (30) days after receiving notice of the violation, the Community will seek correctable action including fines and legal action.
- (3) **Injunctive Relief.** If any person engages in landscaping activities regulated by this ordinance without the prior approval of a landscape plan by the staff, then the Community may file an action for injunctive relief in a court of competent jurisdiction.
- (4) **Denial of Permits.** If any person fails to obtain approval of a landscape plan from the Department or implements a landscape plan contrary to the plan approved by the Department, the Community may deny such person additional development permits on the basis of failure to comply with the requirements of this ordinance.
- (5) **Inspections.** Designated Department inspectors shall have the authority to make inspections at reasonable hours of all areas landscaped pursuant to this ordinance at any time during the development of a site, installation of the landscape plan at the site, and within the first year after the date that the landscaping is completely installed. The inspections may be made without notice, and refusal to allow such inspection will be a violation of this ordinance. Refusal to allow inspection will constitute grounds for a court of competent jurisdiction to issue an administrative warrant for the purposes of inspecting the landscaped area. The Department may utilize knowledgeable volunteers from the local Native Plant Society, the local Soil and Water Conservation District and university extension offices for the purposes of completing the inspections.
- (6) **Suspension or Revocation of License and/or Certification:** All registered landscape architects, landscape designers and landscape contractors that submit a landscape plan pursuant to this ordinance shall be responsible for ensuring that the landscape plan is installed as approved. Any landscape architect, landscape designer or landscape contractor that installs a landscape plan in violation of this ordinance shall be subject to suspension or revocation of their license in the municipality where the work was completed.

Sec. 25 Appeals to Community Council.

Any person adversely affected by a decision of the Department in the enforcement or interpretation of any provisions of this ordinance may appeal such decision to the Community government. Such appeal shall be made in writing to the Community government's legal department and copied to Department within thirty (30) days after the decision of the Department. The Community government shall set a time and place to allow the applicant to be heard. The Community shall thereafter either grant or deny the application in whole or in part and notify the applicant in writing of its decision.

Sec 26 Fees.

The Community Council may charge an applicant reasonable fees for any permits and applications required by this ordinance. Such fees may from time to time be amended by the Community Council.

Sec. 27 Conflicting Regulations Repealed.

All regulations that are in conflict with this ordinance, in whole or in part, are hereby repealed to the extent that they are in conflict.

Sec. 28 Severability.

If any portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate provision and shall not affect the validity of the remaining portions of the ordinance.

Sec. 29 Effective Date.

This ordinance shall take effect on the date on which it is enacted by the Community.