

**CITY OF BONITA SPRINGS, FLORIDA**

**ORDINANCE NO. 08-22**

**AN AMENDMENT TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 3 (DEVELOPMENT STANDARDS); AMENDING SECTIONS 3-411 THROUGH 3-423 (OPEN SPACE, BUFFERING AND LANDSCAPING); REVISING SUBMITTAL REQUIREMENTS AND TIME PERIOD FOR REVIEW PROCESS; PROVIDING FOR DEVIATIONS FOR CERTAIN IRRIGATION PLANS; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE.**

**WHEREAS**, Florida Statutes §166.021 authorizes the City of Bonita Springs to establish, coordinate and enforce laws that are necessary for the protection of the public; and

**WHEREAS**, Bonita Springs City Council is in the process of transitioning its Land Development Code (Zoning) from Lee County to City of Bonita Springs, but from time to time finds that it is necessary to make minor amendments rather than wait for the adoption of the new Land Development Code; and

**WHEREAS**, City Council sees the need to preserve heritage trees and provide additional incentives beyond what is currently provided in the Land Development Code, so as to provide a community with more tree specimens available for view and enjoyment; and

**WHEREAS**, City Council created its Tree Advisory Board to assist with a greener City of Bonita Springs, and City Council desires to gather their input prior to certain zonings and development orders, so that applicants have the ability to have Master Concept Plans reviewed so as to maximize retention of heritage trees and other unique tree specimens.

**WHEREAS**, City Council finds it necessary to amend Land Development Code Chapter 3, Sections 3-414 and 3-415, so as to modify its submittal, and Tree Advisory Board requirements, respectively, when property is being developed, so that input from the Tree Advisory Board occurs during certain stages of development.

**THE CITY OF BONITA SPRINGS HEREBY ORDAINS:**

**SECTION ONE: BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 3**

Sections 3-414 and 3-415 within the City of Bonita Springs Land Development Code Chapter 3 are hereby amended to read as follows, with

strike-through identifying deleted language and underline identifying additional language:

**§3-414. SUBMITTAL REQUIREMENTS.**

- A. *Landscape plan required.* Prior to the approval of a development order ~~or rezoning to a planned development~~, an applicant whose development is covered by the requirements of this Section must submit a landscape plan to be reviewed by staff and the Bonita Springs Tree Advisory Board. The landscape plan must be prepared by and bear the seal of a landscape architect registered in the State of Florida. The plan must include the narrative and calculations to ensure that the proposed landscaping will be in compliance with requirements of this code. However, small projects may qualify for a hardship waiver if the cost of compliance with the landscape architect requirement is disproportionate to the cost of the entire project. This waiver is subject to the sole discretion of the City Manager or designee.

The landscape plan must be drawn at the same scale as the development order plans and include, at a minimum, the following items where applicable:

**LANDSCAPE PLAN REQUIREMENTS**

- Title of Project including Project Owner's Name
- Preparer's Name
- Dimensions and North arrow
- All open space
- Indigenous open space
- All landscape areas
- Highlight all code required landscaping
- Vehicle use areas - parking, aisles, driveways
- Roadways and access points
- Plant spacing and native status
- Overhead and underground utilities
- All easements
- A tree survey
- Preserved trees
- Trees to be relocated
- Construction vegetation protection barricades
- Permanent vegetation protection techniques
- Tree and palm staking detail
- Mulch details
- Reference chart that includes:
  - Graphic plant symbols

- Plants botanical and common name
  - Plant quantity, height and spread
- B. *Irrigation plan required.* Prior to the approval of a development order, an applicant whose development is covered by the requirements of this Section must submit an irrigation plan. This requirement can be met by the addition of notes or drawings on the landscape plan sheet of the development order. The irrigation plan requirement does not apply to single-family residential lots created by a development order. The conceptual irrigation plan must, at a minimum, indicate:
1. The type of ~~automated~~ irrigation system proposed.
  2. All landscape areas, including parking lot islands, will be adequately sleeved for irrigation. This requirement must be included on the grading/paving plan sheet.
  3. Consistent with the provisions of Florida Statutes, section 373.62, as may be amended, a moisture (rain) sensor will be included in the irrigation system and located on the site so that it will receive direct rainfall, not impeded by other objects.
  4. The irrigation system will be designed to eliminate the application of water to impervious areas, including roads, drives and other vehicle use areas.
  5. The irrigation system will be designed to avoid impacts on existing native vegetation that will be retained on the development site.
  - ~~6. The irrigation system shall provide for a minimum of 50% overlap of spray areas.~~
  6. “Xeriscape” or “Florida-friendly landscape” irrigation plans may have deviations approved to the irrigation plan, depending on the water conservation measures utilized, and to the extent the irrigation plan conforms with the Florida Yards and Neighborhoods program, as administered by the University of Florida Institute of Food & Agricultural Sciences. In addition to such water saving devices, deviations may be approved for temporary irrigation measures to establish an initial “watering-in stage”, prior to the removal of such temporary irrigation measures.

**§3-415. OPEN SPACE.**

- A. *Open space calculations.* All development must contain the minimum percentage of open space as outlined in the following table below:

**OPEN SPACE REQUIREMENT**

Type of Development	Required Open Space as a % of Development Area
<b>Residential, non-Planned Development:</b> Type of dwelling units as defined in Chapter 9 located in conventional zoning districts.	
Single-family residence	Open space/pervious standards. See Chapter 34
Duplex on a single lot with a minimum lot size of 7,500 sq. ft.	None
Two-family attached each on an	None

individual lot with a minimum lot size of 3,750 sq. ft. per unit	
All other residential, other than planned developments	35%
Residential Planned Development	40%
<b>Industrial:</b>	10%
<b>Other:</b> All other uses including, but not limited to commercial, places of worship, recreational vehicle parks, community facilities, schools (excluding Lee County School District), etc.	20%

B. *Indigenous native vegetation.*

1. Preservation.

- a. Large developments, with existing indigenous native vegetation, must provide 50 percent of their open space percentage requirement through the onsite preservation of existing indigenous native vegetation. Refer to Section 3-701. ~~A minimum setback of 25 feet is required from any structure.~~
- b. If the development area does not contain existing indigenous native vegetation communities, but does contain existing indigenous native trees, then 50 percent of their open space percentage requirement must be met through the onsite preservation of existing native trees consistent with subsection 1 through 4 below. Refer to Appendix A.
  - i. Preservation of indigenous tree clusters is preferred over individual tree protection. Reasonable efforts to retain individual trees must be made. It is recognized that site design requirements (e.g. fill) may limit the ability to retain some individual trees, and in that case the City will allow the removal of those trees.
  - ii. Sabal palms may be relocated in a horticulturally correct manner and clustered within open space areas.
  - iii. Native trees (four to 15-inch caliper dbh) may be relocated to open space areas when proper horticultural methods (e.g. root pruning; use of anti-transpirants) are utilized to insure the survivability of the trees.
  - iv. Effort must be made to preserve heritage trees (live oak, South Florida slash pine, or longleaf pine with minimum 20-inch caliper dbh). If a heritage tree must be removed from a site then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space area.

2. Tree Advisory Board Review.

- a. The Tree Advisory Board may make recommendations to applicants and staff, concurrent with the zoning process ~~or~~ and prior to the issuance of the development order, who may suggest modifications to the Master Concept Plan. The Tree Advisory Board final recommendation may not take longer than ~~thirty (30)~~ sixty (60) days from the date the matter is placed on their agenda, unless agreed to by the applicant.

- b. If the review is required as a zoning condition prior to the issuance of the development order, staff may approve administrative deviations to the parking plan or site layout upon input from the Tree Advisory Board, or alternatively, if staff believes the deviation exceeds their designated authority, may request City Council to approve an administrative deviation to promote the preservation of a heritage trees, sabal palms, native trees, and indigenous native vegetation at a regular City Council meeting, with regular notice of the agenda (no special advertisement or public notice to parties of record). If City Council determines the deviation warrants a public hearing, the applicant shall file for an amendment to their planned development through Chapter 4.
3. Salvaging Existing Native Plants: Open space areas must be designed to incorporate as many of the existing large native trees and sabal palms as possible.
- a. Sabal palms: Healthy sabal palms with a minimum eight foot clear trunk must be salvaged if conditions (e.g., no rock) and sequence of construction allows. If sequence of construction does not allow the on-site relocation of sabal palms, then the sabal palms must salvaged for an off-site recipient site or sale. The salvage efforts must be coordinated with the Division of Environmental Sciences staff whether used on-site or other wise. Any sabal palms being relocated must be moved in a horticulturally correct manner per Lee County Extension Services brochure Lee 8/2000A.
  - b. Other Native Trees: Healthy native trees with a caliper of 5-15 inches at 4 ½ feet above the ground (dbh) may be relocated onsite for credit toward code required landscaping when the trees have been properly prepared for relocation through root pruning or other horticulturally correct methods approved by the City Manager or designee.
4. Credits
- a. As an incentive to preserve indigenous native upland plant communities in large tracts, a scaled open space credit for single preserve areas will be granted as follows:

**INDIGENOUS VEGETATION CREDIT**

Credit provided	Minimum size	Minimum width
110%	1/2 acre	50 feet
125%	1 acre	100 feet
150%	3 acres	200 feet
An additional, maximum ten percent credit will be granted if any of the following vegetation areas are included:		
a. Rare and unique uplands as defined by the City of Bonita Springs Comprehensive Plan.		
b. Connection to offsite public or private environmental conservation or preserve areas.		
c. Upland buffers to natural waterbodies		

5. Consistent with the provisions of Section 3-104, the City Manager or designee may permit administrative deviations to reduce the minimum 50 percent indigenous native vegetation requirement within this subsection to a lower percentage, if the applicant demonstrates that the proposed landscape plan will

result in a better overall product than what would have been produced under these standards. Existing approved indigenous preserve areas within planned developments are not eligible for administrative deviations. The administrative deviation request must include the unique conditions or circumstances that make the property unusable and unreasonably burdensome. The applicant must provide details of other actions that will be taken to offset the reduction. Offsets to this requirement can only be made through enhancements to the landscape material being planted according to the landscape plan.

6. Setbacks.

- a. A minimum thirty (30') foot setback from all preserve (wildland) areas is required for buildings and accessory structures for the purposes of fire protection. Buildings and accessory structures located closer than thirty (30') feet from a preserve (wildland) area shall require special mitigation measures as determined by the Bonita Springs Fire Control and Rescue District, in accordance with the National Fire Protection Association ("NFPA"), Standard 1144, "Standard for Protection of Life and Property from Wildfire".

C. *Minimum dimensions.*

1. The minimum average width of open space areas must be ten feet.
2. The minimum area of open space must be 180 square feet.
3. Indigenous open space areas must have a minimum average width of 20 feet and minimum area of 400 square feet.

D. *Use of open space.*

1. Open space areas must be landscaped in accordance with this division.
2. The following uses may contribute to the open space requirements provided the minimum dimensions are met:
  - a. Buffers and landscaped areas in off-street parking areas, except for areas reserved for future parking spaces pursuant to Section 4-2017(D);
  - b. Dry detention areas.
  - c. Existing or proposed bodies of water, including stormwater management areas, and areas subject to saltwater inundation, which may be used to offset up to a maximum of 25 percent of the required open space area.
  - d. Active and passive recreation areas such as playgrounds, golf courses, beach frontage, native trails, bikeways, pedestrian ways, tennis courts, swimming pools, and other similar open spaces, as long as not more than 20 percent of the recreational area credited as open space consists of impervious surface.
  - e. Outdoor active and passive public use areas such as plazas, atriums, courtyards, and other similar public spaces may be used to offset up to a maximum of 20 percent of the required open space.

- f. Archaeological sites or zones that are designated as significant historic resources pursuant to Chapter 5 may also be used in open space calculations.
- E. *Indigenous Preserve Management Plan.* A long-term management plan must be submitted that details land management activities to be taken to ecologically manage the indigenous preservation area. This document must be recorded on the deed to insure future property owners associations, and future owners or assigns are provided clear notice of these long-term land management requirements and commitments. The management plan must provide details of maintaining the biological health of the system. The management plan must include but is not limited to: native plant maintenance, exotic pest plant control, protected species habitat maintenance, schedule of maintenance activities and allowable uses, and wildfire risk mitigation (which will take into account the flammability of such vegetation).

**SECTION TWO: CONFLICTS**

Whenever the requirements or provisions of this amending ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statutes, the most restrictive requirements shall apply.

**SECTION THREE: SEVERABILITY**

If any part, section, subsection, or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reasons, such part, section, subsection, or other portion of the prescribed application thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City declares that no invalid or prescribed provision or application was an inducement to the enactment of this Ordinance, and that it would have enacted this Ordinance regardless of the invalid or prescribed provision application.

**SECTION FOUR: CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS**

It is the intention of the City Council for the City of Bonita Springs that the provisions of this Ordinance shall become and be made part of the Bonita Springs City Code; and that sections of this ordinance may be renumbered or re-lettered and that the work "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or re-lettered and typographical errors which do not effect the intent may be authorized by the City Manager, or the City Manager's designee, without need or public hearing, by filing a corrected or recodified copy of same with the City Clerk.

**SECTION FIVE: EFFECTIVE DATE**

The effective date of this ordinance shall be thirty (30) days from its adoption date.

**DULY PASSED AND ENACTED** by the City Council of the City of Bonita Springs, Florida this 5<sup>th</sup> day of November, 2008.

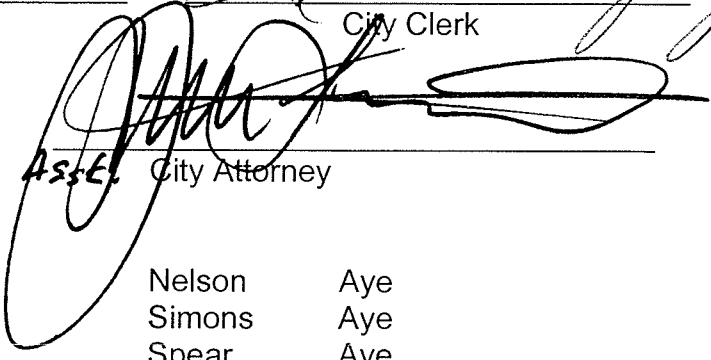
AUTHENTICATION:

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

Vote:

  
\_\_\_\_\_  
City Attorney

Ferreira	Aye	Nelson	Aye
Lonkart	Aye	Simons	Aye
Martin	Aye	Spear	Aye
McCourt	Aye		

Date Filed With City Clerk: 11-7-08