

ORDINANCE 2023-012

1
2 AN ORDINANCE OF THE TOWN OF HOWEY-IN-THE-HILLS,
3 FLORIDA, PERTAINING TO LAND USE; AMENDING SECTIONS
4 OF THE TOWN’S LAND DEVELOPMENT CODE AS FOLLOWS:
5 AMENDING SECTION 5.02.06 TO SPECIFY THE MINIMUM
6 SETBACK FROM PROPERTY LINES FOR FLAGPOLES;
7 AMENDING SECTION 2.03.03 TO REQUIRE TWO-CAR GARAGES
8 FOR TOWNHOMES AND TO SPECIFY THE MINIMUM SQUARE
9 FOOTAGE OF THE GARAGE AND THE MINIMUM LENGTH AND
10 WIDTH OF THE RELATED DRIVEWAY; AMENDING SECTION
11 5.02.06 TO SPECIFY THE TIME PERIOD FOR TEMPORARY
12 PERMITS FOR MOVABLE MODULE STORAGE UNITS;
13 AMENDING SECTION 7.09.02 PERTAINING TO TREE PRUNING;
14 AMENDING SECTION 7.10.00 AND ITS LIST OF APPROVED TREES
15 AND PLANTS; AMENDING SECTION 7.10.01 TO ADD AN ITEM TO
16 THE PROHIBITED PLANT LIST; AMENDING SECTION 7.11.01
17 REGARDING TREE PROTECTION; AMENDING SECTION 7.08.01
18 REGARDING LANDSCAPING REQUIREMENTS; ENACTING NEW
19 SECTION 5.01.10 TO DEFINE “WORKSHOPS;” ENACTING NEW
20 SECTION 7.04.04 TO IMPOSE CERTAIN REQUIREMENTS AT
21 STREET INTERSECTIONS TO PRESERVE VISIBILITY FOR
22 MOTORISTS; AMENDING SECTION 1.12.00 TO ENACT A NEW
23 DEFINITION AND TO MODIFY CERTAIN EXISTING
24 DEFINITIONS; AMENDING SECTION 7.12.01 REGARDING
25 REQUIREMENTS FOR TREE REMOVAL; ENACTING NEW
26 SUBSECTIONS 8.05.02.L AND 8.05.04.F REGARDING POTABLE
27 AND RECLAIMED WATER SYSTEMS; ESTIMATING THE
28 ECONOMIC IMPACT OF THE ORDINANCE ON PRIVATE
29 BUSINESSES; PROVIDING FOR SEVERABILITY, CODIFICATION,
30 AND AN EFFECTIVE DATE.

31
32 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HOWEY-IN-
33 THE-HILLS, FLORIDA:

34
35 **Section 1. Amendment to section 5.01.11, Flagpoles.** Section 5.01.11 of the Land
36 Development Code is amended to read:

37
38 **5.01.11 Flagpoles**

39 Flagpoles shall conform to the maximum height limits established for the zoning
40 classification where they are located. Individual flags displayed on the pole shall not exceed
41 twenty-five (25%) percent of the height of the flagpole. Flagpoles shall not be located within
42 required buffers but may be located within required yards. Flagpoles shall have a minimum
43 five-foot setback from all property lines.

45 **Section 2. Amendment to section 2.03.03, Townhomes.** Section 2.03.03 of the Land
46 Development Code is amended to read:

47 **2.03.03 Townhomes**

48 A. In order to support increased densities in the Town Center Overlay, townhome
49 construction is permitted in areas designated as Town Center Residential (TC-R), Town Center
50 Flex (TC-F) or Town Center Commercial (TC-C). All townhomes shall meet the density limits
51 allowed by the underlying land use classification and shall meet the dimensional requirements
52 as follows:

53 B. Dimensional Criteria

- 54 1. Maximum building height is 2 ½ stories and 30 feet.
- 55 a. Building-mounted appurtenances such as belfries, chimneys, cupolas, and
56 antennas used for domestic purposes, or other appurtenances usually placed
57 above roof level and not used for human occupancy, may exceed the
58 maximum building height by 10 feet.
- 59 2. Maximum impervious surface is 40%
- 60 3. Maximum of 4 dwelling units per acre
- 61 4. Minimum lot size for townhomes is 5,000 square feet.
- 62 5. Minimum lot width is 50 feet for exterior townhome lots, and 35 feet for interior
63 townhome lots
- 64 6. Minimum lot depth is 120 feet
- 65 7. Minimum front yard setback is 25 feet (15 feet if the lot includes a recessed or
66 detached garage at least 25 feet from the front lot line)
- 67 8. Minimum street side yard setback is 25 feet
- 68 9. Minimum side yard (interior) setback is 15 feet (no side setback for interior
69 townhome units)
- 70 10. Minimum rear yard setback is 25 feet for principal dwelling, detached garage,
71 or accessory dwelling. Rear yard setback for sheds, workshops, pools, play
72 structures, and other similar accessory structures is 10 feet.
- 73 11. Setbacks do not pertain to boathouses, docks, or fences.
- 74 12. Minimum square footage of townhomes is 1,200 square feet (air-conditioned,
75 not including garage).

76 13. Townhomes shall have a two-car garage (a minimum of 441 square feet) and a
77 driveway that measures a minimum of 16 feet wide and 20 feet long from the
78 right-of-way to the garage.

79

80 **Section 3. Amendment to section 5.02.06, Movable Module Storage Units.** Section
81 5.02.06 of the Land Development Code is amended to read:

82 **5.02.06 Moveable module storage units.**

83 Movable module storage units (called “storage pods”) are permitted temporary structures,
84 provided that such structures are located in compliance with the following standards:

- 85 A. A temporary use permit shall be obtained. Permits may be extended for just cause.
- 86 B. The duration of the temporary use permit shall be limited to ~~fourteen (14)~~ 30 days per
87 lot per year.
- 88 C. The storage pod may be placed on a paved or unpaved surface. When the temporary
89 use permit authorizes location of the storage pod on an unpaved surface, the permit
90 shall be conditioned upon the requirement that grass, sod, or landscaping shall be
91 restored after removal of the storage pod.
- 92 D. The storage pod may be placed in a front or rear yard. Placement in a side yard is
93 prohibited.
- 94 E. The storage pod shall not be placed within an easement, stormwater area, or required
95 buffer.
- 96 F. The storage pod shall be placed at least ten (10) feet from any property line.
- 97 G. The storage pod shall not obstruct pedestrian access.
- 98 H. The storage pod shall not be located within the clear visibility area at street
99 intersections as set forth in Section ~~7.04.08~~ 7.04.04.
- 100 I. The storage pod shall not exceed a maximum size of sixteen (16) feet in length and
101 eight (8) feet in width.

102

103 **Section 4. Amendment to section 7.09.02, Maintenance of Plant Materials.** Section
104 7.09.02 of the Land Development Code is amended to read:

105 **7.09.02 Maintenance of plant materials**

- 106 A. Property owners and/or their agents shall be jointly and severally responsible
107 for the maintenance of all landscaping in good appearance, free of refuse and debris. This
108 includes newly installed landscapes as well as those older established landscapes.

109 1. Replacement of substandard plant materials. All unhealthy and dead plant
110 materials shall be replaced within 30 days in conformance with the approved site or
111 landscape plan. Failure to replace the plant material within 30 days shall constitute a
112 violation and be regulated through code enforcement.

113 2. Proper Pruning. Proper pruning practices as stated in the ~~National Arborist~~
114 ~~Association's (NAA) Pruning Standards for Shade Trees~~ ANSI Standard 300 Part 1
115 (Pruning) or equal are required by this LDC. The practice of "topping" or "hat-racking"
116 is considered unacceptable by the NAA standards. In compliance with these standards,
117 every effort shall be made to cut back to a lateral at least one-third to one-half the
118 diameter of the parent limb or leader that is being removed. Cuts not made to a suitable
119 lateral, sometimes called topping cuts, shall not be permitted. Street tree canopy over
120 sidewalks shall be maintained with a ten-foot height clearance.

121

122 **Section 5. Amendment to section 7.10.00, Approved Tree and Plant List.** Section
123 7.10.00 of the Land Development Code is amended to read:

124 **7.10.00 Approved tree and plant list**

125 **Table 7.10.00 Approved Tree and Plant List**

Canopy Trees	Understory Trees	Aquatic Plants	Shrubs	Ground Cover	Turf
Bald Cypress	American Holly	Arrowhead	American Beauty Berry	Aloe	Bahia
Sweet Bay* Magnolia	Chickasaw Plum	Arrowroot	Cherry Laurel	Chinese Juniper	Bermuda
Live Oak *	Crape Myrtle	Bald Cypress	Fetterbrush	Coontie	St. Augustine
Longleaf Pine	Dahoon Holly	Blue Flag Iris	Firebush	Day Lily	Zoysia
Red Maple	Date Palm	Buttonbush	Florida Anise	Dwarf Yaupon Holly	
Shumard Oak	Drake Elm	Cinnamon Fern	Gallberry	English Ivy	
Slash Pine	East Palatka Holly	Duck Potato	Indian Hawthorne	Florida Lantana	
Southern Magnolia *	Flowering Dogwood	Fragrant White Water Lily	Ligustrum	Lirope	
Sweet Bay	Ligustrum	Golden Canna	Ligustrum	Mondo Grass	

Sweetgum	Loquat	Maidencane	Native Azaleas	Society Garlic	
Sycamore	Sabal/Cabbage Palm	Pickerel Weed	Pampas Grass	Wandering Jew	
Water Oak	Savannah Holly	Pond Cypress	Pink Muhly Grass	Perennial Peanut	
Drake Elm*	Washington Palm	Sawtooth fern	Pittosporum	Beach Sunflower	
	Wax Myrtle	Soft Rush	Podocarpus	Dwarf Asiatic Jasmine	
	Weeping Bottlebrush	Swamp Hibiscus	Sandanka Viburnum		
	Winged Elm		Saw Palmetto		
	Yaupon Holly		Silverthorn		
	Natchez Crepe Myrtle		Simpson Stopper		
	Purpleleaf Plum		St. Johns Wort		
	Medjool Date Palm		Star Anise		
	Bamboo Palm		Sweet Viburnum		
	Japanese Blueberry				

126

127 *Live Oaks, Laurel Oaks and Southern Magnolias are the ~~two~~ three approved Street Tree
 128 species in the Town of Howey in the Hills. Drake Elm and Sweet Bay Magnolia may be used
 129 where planting space is at a premium. Other trees may also be requested as street trees and
 130 will be considered on a case-by-case basis depending on the site conditions. ~~Palms in clusters~~
 131 ~~may be used as canopy trees, but not in excess of 10 percent of the total required canopy trees~~
 132 ~~for the site.~~ Palms may be used to replace shade trees in clusters of three trees for residential
 133 parcels and five trees for commercial parcels. Palms may not be used as substitutes for street
 134 trees. Palms may be applied as accent trees in addition to shade trees; as part of a thematic
 135 project design; and as an alternative to understory trees when integrated into planting beds.

136 Plants that do not appear on the above table may also be used if they are recommended by one
 137 of the following agencies:

- 138 1. The St. Johns River Water Management District,
139 2. The University of Florida, IFAS (Institute of Food and Agricultural Sciences)
140 Extension, or
141 3. The Florida Department of Environmental Protection, Bureau of Aquatic Plant
142 Management.

143

144 **Section 6. Amendment to section 7.10.01, Prohibited Plant List.** Section 7.10.01 of
145 the Land Development Code is amended to read:

146 **7.10.01 Prohibited Plant List**

147 The following trees and plants are prohibited:

- 148 A. Acacia
149 B. Albizia Julibrissin (mimosa or silk tree)
150 C. Australian Pine
151 D. Brazilian Pepper Tree
152 E. Camphor
153 F. Castor Bean
154 G. Chinaberry
155 H. Chinese Tallow
156 I. Ear Tree
157 J. Eucalyptus
158 K. Hydrilla
159 L. Monkey Puzzle
160 M. Punk Tree
161 N. Rice Paper Plant
162 O. Silk Oak
163 P. Taro
164 Q. Water Hyacinth

165 R. Ailanthus (tree of heaven)

166 Also prohibited are those plant species prohibited by the Florida Department of Environmental
167 Protection, the Florida Department of Agriculture and the plants listed as invasive by the
168 Florida Exotic Pest Council. Trees on the Prohibited Plant List are exempt from the tree
169 protection requirements of this chapter.

170

171 **Section 7. Amendment to section 7.11.01, Tree Protection.** Section 7.11.01 of the
172 Land Development Code is amended to read:

173 **7.11.01 Tree protection**

174 A. No application for a building permit, land clearing permit, site development
175 permit, subdivision development permit, or grading and filling permit may be issued by the
176 Building Official until the site inspector has visited the site and determined that the tree
177 protection measures are in place in accordance with this chapter and the approved site or
178 subdivision plans. Tree protection shall meet the standards of ANSI Standard A300 Part 5.

179 B. During construction, to ensure the health and survival of protected trees that are
180 not to be removed, the developer shall avoid the following types of tree injuries during all
181 development activities:

182 1. Mechanical injuries to roots, trunk, and branches. To protect against
183 mechanical injuries to roots, trunk, and branches:

184 a. All existing trees that are to remain shall have barriers constructed
185 around the tree at the drip line or around the combined drip line of any clumps of trees.
186 Barriers are to be inspected by the Town prior to the start of any construction.

187 b. The minimum size of such wood barrier fencing shall be two inches (2")
188 by four inches (4") and the top of the barrier shall be a minimum of four feet (4') high.
189 Another acceptable means of barricading trees is the use of orange plastic construction
190 fence, four feet (4') high, and supported every eight feet (8') by a No. 5 rebar, driven
191 into the ground. Fencing shall be securely attached to rebar by the use of nylon zip ties
192 or twisted wire. Barricades must be taut and perpendicular to the ground. No
193 construction activity, cuts, fill, debris disposal or vehicular traffic is to take place within
194 this area. Additionally, the storage or placement of material, machinery, or other
195 construction equipment or substances is prohibited within the drip line area.

196 c. Any waiver or request to construct barriers within the drip line shall be
197 reviewed by the Town. The request must be accompanied by a report from a qualified
198 arborist. Where drip lines of existing trees overlap, the orange mesh fencing or the
199 wood barriers shall be erected around the outer perimeter of the combined drip lines.

200

201 **Section 8. Amendment to section 7.08.01, Required landscaping.** Section 7.08.01 of
202 the Land Development Code is amended to read:

203 **7.08.01 Required Landscaping**

204 At least ~~50%~~ 60% of the landscaped area for each single-family lot shall be drought tolerant or
205 Florida Friendly plants. Florida Friendly plants require a minimum of irrigation and shall be
206 grouped together on the lot in order to reduce the irrigation requirement for those zones. Turf
207 area may exceed 40% if the turf area over 40% is unirrigated.

208

209 **Section 9. Amendment to section 5.01.10, Workshops.** Section 5.01.10 of the Land
210 Development Code is enacted to read:

211 **5.01.10 Workshops**

212 A workshop is an accessory structure used for actively pursuing a craft or hobby such as
213 pottery, woodcraft, etc. A workshop shall be served by electricity and shall conform to the
214 standards for storage sheds (5.01.09) and to the standards for all accessory structures
215 (5.01.03).

216 (NOTE: The Town Clerk is to renumber current section 5.01.10, Docks, Piers and Wharfs,
217 and section 5.01.11, Flagpoles.)

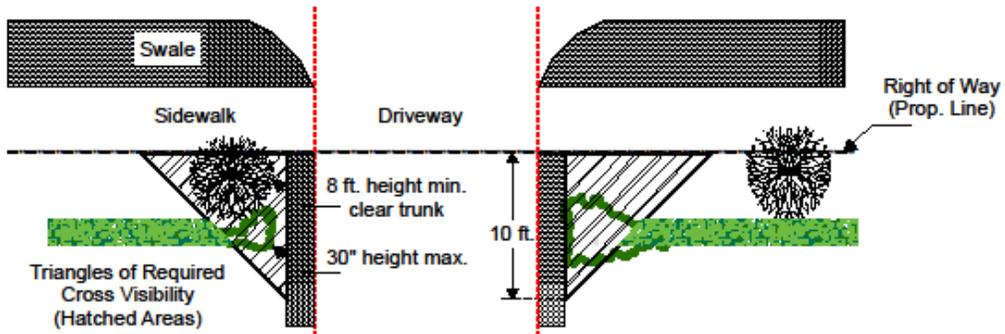
218

219 **Section 10. Amendment to section 7.04.04, Visibility triangle at intersections.** Section
220 7.04.04 is enacted to read:

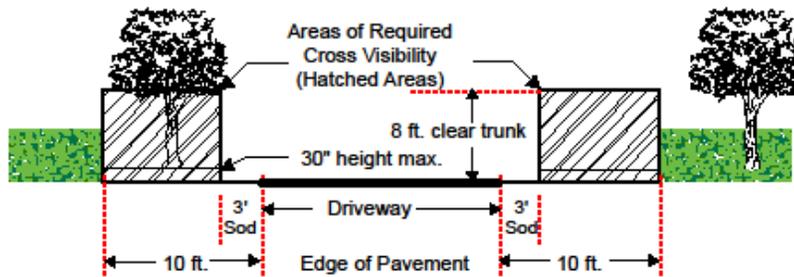
221 **7.04.04 Visibility Triangle at Intersections**

222 To preserve visibility at intersections of streets and at intersections of driveways with streets,
223 a visibility triangle shall be provided as shown in the following diagram.

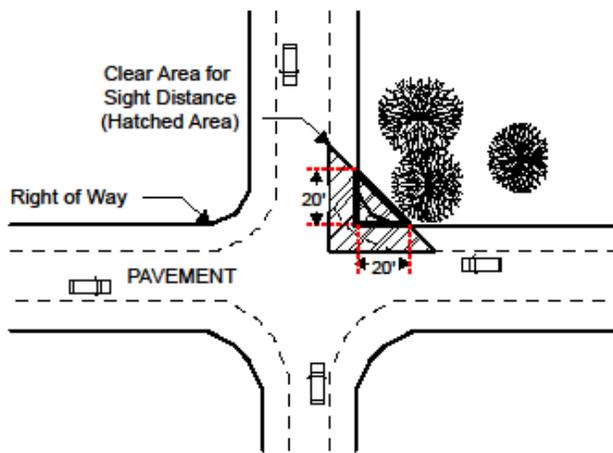
224



PLAN : Intersection of Driveway and Street



CROSS SECTION A-A' : Intersection of Driveway and Street



PLAN : Local Roadway in Subdivision

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228 **Section 11. Amendment to section 1.12.00, Acronyms and definitions.** Section 1.12.00
229 is amended to read, and is amended to add the definition of “street tree,” as follows:

230 *Canopy Tree* means a tree, usually with one main trunk, which develops an elevated crown
231 and provides at maturity, a minimum shade crown of ~~thirty~~ 30 feet (~~30'~~) in diameter or
232 greater. See also street tree.

233 *Street Tree* means any tree meeting the requirements for a canopy tree and planted to meet
234 the requirements for a street tree as required by the code. See also canopy tree.

235 *Primary Façade* is the exterior wall of a building that faces a street. ~~Buildings on corner lots~~
236 ~~have two primary facades. Buildings on lots abutting more than one street, including corner~~
237 ~~lots, through lots, and any lot abutting three or four streets, have two, three or four primary~~
238 ~~facades based on the number of streets fronted by the lot.~~

239

240 **Section 12. Amendment to section 7.12.01, Permit required.** Section 7.12.01 of the Land
241 Development Code is amended to read:

242 7.12.01 **Permit required**

243 A. Any person who proposes to cut down, move, remove, or destroy any tree,
244 including those on single family lots, shall first obtain a tree removal permit from the Town
245 unless otherwise exempt under F.S. 163.045. Prior to removal of any tree exempt from
246 permitting under F.S. 163.045 the property owner shall provide to the Town a copy of the
247 arborist report required by Section 163.045(2). Requests for tree removal permits shall be
248 made to the ~~Public Works Director~~ Code Enforcement Officer. Trees that are located on
249 vacant, undeveloped land shall not be removed except as permitted through the development
250 of the site. Trees that are on the Town’s prohibited tree list may be removed without a permit.
251 Any application for a tree removal permit shall include the following:

- 252 a. Property owner’s name and daytime telephone number.
- 253 b. Street address and directions to the site.
- 254 c. Type and size of tree proposed to be removed.
- 255 d. Purpose for the tree removal.
- 256 e. Most recently available boundary survey.
- 257 f. General location of the tree on the site.
- 258 g. How many trees remain on the lot or parcel.

259 B. When determining whether to permit the tree removal, the following issues will be
260 evaluated:

- 261 1. Whether the tree has a potentially hazardous branching structure such as a
262 hollow trunk, low fork in the trunk, or other.
- 263 2. Whether the tree is injured or diseased beyond repair.
- 264 3. Whether there are no viable alternatives to locating structures or driveways
265 on the site.
- 266 4. Whether the tree is impacting the foundation of a house or other building or
267 structure.
- 268 5. Whether the tree poses a threat to traffic visibility.
- 269 6. Whether the tree is negatively impacting a more desirable tree.
- 270 7. Any other issue deemed important by the Town.
- 271 8. Trees that are deemed hazardous or otherwise unsafe shall be allowed to be
272 removed without mitigation. In circumstances where the condition
273 supporting the removal of a tree is not obvious or easily documented by the
274 Town inspector, a letter from a certified arborist may be required to permit
275 removal. In emergency situations, a hazardous tree may be removed as long
276 as proper documentation in the form of photographs and/or a written
277 opinion from Town staff, accompanies the permit application.

278 C. Any trees removed in violation of this chapter shall be deemed to be violations of
279 this Code and subject to all penalty provisions afforded the Town.

280

281 **Section 13. Amendment to section 8.05.02, Potable water system.** Section 8.05.02 of the
282 Land Development Code is amended to enact new subsection L, as follows:

283 **8.05.02 Potable water system**

284 * * *

285 L. It is the responsibility of all potable water customers to maintain a three-foot area
286 clear of any fences, structures or landscaping other than sod or mulch around meter boxes to
287 allow for access by Town employees for reading, maintenance, and disconnection of service.
288 The meter box may not be buried or obstructed from view. The Town shall not be
289 responsible for any damage to plants, fences or other impediments that are removed in the
290 course of Town work.

291

292 **Section 14. Amendment to section 8.05.04, Reclaimed water systems.** Section 8.05.04
293 of the Land Development Code is amended to enact new subsection F, as follows:

294 **8.05.04 Reclaimed water system**

295 * * *

296 **F.** It is the responsibility of all reclaimed water customers to maintain a three-foot area
297 clear of any fences, structures or landscaping other than sod or mulch around meter boxes to
298 allow for access by Town employees for reading, maintenance, and disconnection of service.
299 The meter box may not be buried or obstructed from view. The Town shall not be
300 responsible for any damage to plants, fences or other impediments that are removed in the
301 course of Town work.

302

303 **Section 15. Business Impact Estimate.** In compliance with Subsection 166.041(4) of
304 Florida Statutes the Town provides the following business impact estimate:

305 a) **Summary of Ordinance 2023-012.** Ordinance 2023-012 is a collection of
306 amendments to the Town’s Land Development Code (LDC). The amendments were
307 recommended by the Planning and Zoning Board. The amendments largely clarify existing
308 LDC provisions. Some amendments add needed regulations or specify permitted and
309 prohibited actions and land uses by developers and landowners. The amendments address
310 setbacks, townhome garage and driveway requirements, permits for temporary storage units,
311 tree removal and protection, approved and prohibited types of trees and other plants,
312 landscaping requirements and restrictions, “workshop” structures, and visibility standards for
313 motorists. All amendments are intended ultimately to address public safety and welfare.

314 b) **No economic impact.** The following amendments in Ordinance 2023-012 will
315 have no material economic impact on private, for-profit businesses:

- 316 1. Flagpole setbacks in LDC section 5.01.11;
- 317 2. Extended permit periods for temporary storage units under section 5.02.06;
- 318 3. Clarification of pruning requirements in section 7.09.02;
- 319 4. Adjustments to the list of approved trees and plants in section 7.10.00;
- 320 5. Adjustments to the list of prohibited plants in section 7.10.01;
- 321 6. Clarification of tree-protection standards in section 7.11.01;
- 322 7. Clarification of the portions of single-family lots required to be drought-
- 323 tolerant and unirrigated;
- 324 8. Addition of “workshops” to the types of permitted accessory structures;
- 325 9. Requirement for “visibility triangles” at street intersections and at the
- 326 intersection of driveways and streets;
- 327 10. Clarification of and an addition to defined terms under section 1.12.00;

328 11. Clarification of when trees may be removed without the need to first obtain a
329 removal permit under section 7.12.01;

330 12. Adding requirements for property owners to keep spaces around potable-water
331 and reclaimed-water meters clear of obstacles and landscaping under sections
332 8.05.02 and 8.05.04

333 c) **Economic impact.** The Town estimates that the requirement in LDC section
334 2.03.03 for a two-car garage and a driveway of minimum length and width at each
335 new townhome will increase the cost of constructing the townhome, as of October
336 2023, by an amount equal to approximately \$_____ .

337

338 **Section 16. Severability.** If any provision or portion of this ordinance is declared by a
339 court of competent jurisdiction to be void, unconstitutional, or unenforceable, the remaining
340 provisions and portions of this ordinance shall remain in full effect. To that end, this
341 ordinance is declared to be severable.
342

343 **Section 17. Codification** The amendments in Sections 1 through 14 of this ordinance
344 shall be codified and published in the Town’s Land Development Code. No other provisions
345 shall be codified, either in the Town’s Code of Ordinances or in the Land Development
346 Code.

347 **Section 18. Effective Date.** This ordinance shall take effect upon its enactment.

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[Signatures on the following page]

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368 **ORDAINED AND ENACTED** this ____ day of _____, 2023, by the Town Council
369 of the Town of Howey-in-the-Hills, Florida.

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**TOWN OF HOWEY-IN-THE-HILLS,
FLORIDA**

By: its Town Council

By: _____
Hon. Martha MacFarlane, Mayor

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381

ATTEST:

APPROVED AS TO FORM AND LEGALITY
(for the use and reliance by the Town only)

382
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386

John M Brock, Town Clerk

Thomas J Wilkes, Town Attorney

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393 First Reading: _____, 2023
394 Second Reading and Enactment: _____, 2023

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Advertising :