

MEMORANDUM

TO: Howey-in-the-Hills Planning Board
CC: J. Brock, Town Clerk
FROM: Thomas Harowski, AICP, Planning Consultant
SUBJECT: Land Development Code Amendments
DATE: May 23, 2023

This report presents a series of proposed amendments to the Land Development Code for consideration by the Board. The proposed amendments come from several sources including Town staff, Code Enforcement, previous directions from the Planning Board and directives from the Town Council. The Planning Board is asked to provide a recommendation on the suggested amendments which will then be put in ordinance form for consideration by the Town Council. (Note: Proposed additions are underlined, and deletions are marked by a strike-through. Changes are in red text for easier identification.)

Flag Poles

Source: Code Enforcement

The code currently includes a provision for flagpoles, but the Code Enforcement Officer has requested more specific provisions to allow for more clarity on flagpoles and to improve the ability of code enforcement to address complaints should they arise. The proposed revision is as follows:

5.01.11 Flagpoles

A. Residential single-family properties are allowed to have one flagpole not to exceed twenty (20) feet in height above finished grade or extend no more than ten (10) feet from any building to which it is associated.

B. Residential developments that are at least ten (10) acres or mor are allowed to have up to three (3) flagpoles, not to exceed thirty (30) feet in height, at each entrance that provides ingress/egress of an arterial or collector road, provided there is at least 300 square foot separation between entrances. Four additional flagpoles may be allowed, not to exceed 30 feet in height, within the common area of the development provided that the flagpoles are not visible to motorists along any frontage roadway.

C. Two flags are allowed to be displayed on a single flagpole. Individual flags displayed on the flagpole shall not exceed twenty-five (25%) of the height of the flagpole.

D. Flagpoles shall have a minimum five (5) foot setback from all property lines.

E. Flagpoles shall not be located within required buffers but may be located within required yards.

F. All flagpoles fifteen (15) feet or higher require a permit from the Town.

G. American flags should be flown in accordance with the U.S. Flag Code.

~~Flagpoles shall conform to the maximum height limits established for the zoning classification where they are located. Individual flags displayed on the pole shall not exceed twenty-five (25%) percent of the height of the flagpole. Flagpoles shall not be located within required buffers but may be located within required yards.~~

Note: The ratio of flag size to flagpoles size at 25% is the official ratio established for display of the American flag. The regulation uses this ratio for all flags.

Moveable Storage Units

Source: Code Enforcement

Two changes are proposed to this section . One is to correct the reference to the visibility triangle at street and driveway intersections. The Town code does not currently include a clear rule on visibility triangles, and one is proposed in this amendment package. The second is to change the period a storage unit can be placed on site from 14 to 30 days. Typically the rental term for a storage unit is one month.

5.02.06 Movable Module Storage Units

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

- A. A temporary use permit shall be obtained.
- B. The duration of the temporary use permit shall be limited to ~~fourteen (14)~~ thirty (30) days per lot per year.
- C. The storage pod may be placed on a paved or unpaved surface. When the temporary use permit authorizes location of the storage pod on an unpaved surface, the permit shall be conditioned upon the requirement that grass, sod, or landscaping shall be restored after removal of the storage pod.
- D. The storage pod may be placed in a front or rear yard. Placement in a side yard is prohibited.
- E. The storage pod shall not be placed within an easement, stormwater area, or required buffer.
- F. The storage pod shall be placed at least ten (10) feet from any property line.
- G. The storage pod shall not obstruct pedestrian access.
- H. The storage pod shall not be located within the clear visibility area at street intersections as set forth in Section ~~7.01.08~~ 7.04.04.
- I. The storage pod shall not exceed a maximum size of sixteen (16) feet in length and eight (8) feet in width.

Townhome Parking Requirements
Source: Planning Board

During the review of the townhome project in Venezia South, the Planning Board recommended the code be revised to require a minimum two-car garage for townhouse units. The proposed amendment is as follows:

2.03.03 Townhomes

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

B. Dimensional Criteria

1. Maximum building height is 2 ½ stories and 30 feet
 - a. Building-mounted appurtenances such as belfries, chimneys, cupolas, and antennas used for domestic purposes, or other appurtenances usually placed above roof level and not used for human occupancy, may exceed the maximum building height by 10 feet.
2. Maximum impervious surface is 40%
3. Maximum of 4 dwelling units per acre
4. Minimum lot size for townhomes is 5,000 square feet.
5. Minimum lot width is 50 feet for exterior townhome lots, and 35 feet for interior townhome lots
6. Minimum lot depth is 120 feet
7. Minimum front yard setback is 25 feet (15 feet if the lot includes a recessed or detached garage at least 25 feet from the front lot line)
8. Minimum street side yard setback is 25 feet
9. Minimum side yard (interior) setback is 15 feet (no side setback for interior townhome units)
10. Minimum rear yard setback is 25 feet for principal dwelling, detached garage, or accessory dwelling. Rear yard setback for sheds, workshops, pools, play structures, and other similar accessory structures is 10 feet.
11. Setbacks do not pertain to boathouses, docks, or fences.
12. Minimum square footage of townhomes is 1,200 square feet (air-conditioned, not including garage).
13. Townhomes shall have a two-car garage (a minimum of 400 square feet) and a driveway that measures a minimum of 16-feet wide and 20-feet long from the right-of-way to the garage.

Maintenance of Plant Materials

Source: Code Enforcement

Revisions recommended in arborist report.

7.09.02 Maintenance of Plant Materials

- A. Property owners and/or their agents shall be jointly and severally responsible for the maintenance of all landscaping in good appearance, free of refuse and debris. This includes newly installed landscapes as well as those older established landscapes.
1. Replacement of substandard plant materials. All unhealthy and dead plant materials shall be replaced within 30 days in conformance with the approved site or landscape plan. Failure to replace the plant material within 30 days shall constitute a violation and be regulated through code enforcement.
 2. Proper Pruning. Proper pruning practices as stated in the ~~National Arborist Association's (NAA) Pruning Standards for Shade Trees~~ ANSI Standard 300 Part 1 (Pruning) or equal are required by this LDC. The practice of "topping" or "hat-racking" is considered unacceptable by the NAA standards. In compliance with these standards, every effort shall be made to cut back to a lateral at least one-third to one-half the diameter of the parent limb or leader that is being removed. Cuts not made to a suitable lateral, sometimes called topping cuts, shall not be permitted. Street tree canopy over sidewalks shall be maintained with a ten (10) foot height clearance.

Approved Tree and Plant List

Source: Town Council and Code Enforcement

This proposed amendment modifies the list of approved trees and plants for landscaping and buffers. Two additional trees are added to the list of acceptable canopy trees, the laurel oak is reclassified as a qualified street tree, and understory trees are modified with some deletions and additions. These revisions are in part driven by recommendations of an arborist who reviewed the Town's tree regulations and provided recommendations. This revision in the canopy trees has been driven in part by tree replacement code enforcement actions in the Venezia neighborhood. The amendment also includes a rule for palm trees proposed to replace shade trees in residential and commercial settings. Shade or canopy trees are used to provide a shading canopy which is not generated by an individual palm tree. By requiring a grouping of palm trees when proposed to replace shade trees, the intended effect is to provide a broader canopy by requiring a grouping of palms.

APPROVED TREE AND PLANT LIST

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
Laurel Oak*	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	Pickereel 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	
Sweet Bay* Magnolia	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		

*Live Oaks, Laurel Oaks and Southern Magnolias are the ~~two~~ three approved Street Tree species in the Town of Howey in the Hills. Drake Elm and Sweet Bay Magnolia may be used where planting space is at a premium. Other trees may also be requested as street trees and will be considered on a case-by-case basis depending on the site conditions. ~~Palms in clusters may be used as canopy trees; but not in excess of 10 percent of the total required canopy trees for the site.~~ Palms

may be used to replace shade trees in clusters of three trees for residential parcels and five trees for commercial parcels. Palms may not be used as substitutes for street trees. Palms may be applied as accent trees in addition to shade trees; as part of a thematic project design; and as an alternative to understory trees when integrated into planting beds.

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

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

7.10.01 Prohibited Plant List

The following trees and plants are prohibited:

- A. Acacia
- B. Albizia Julibrissin (mimosa or silk tree)
- C. Australian Pine
- D. Brazillian Pepper Tree
- E. Camphor
- F. Castor Bean
- G. Chinaberry
- H. Chinese Tallow
- I. Ear Tree
- J. Eucalyptus
- K. Hydrilla
- L. Monkey Puzzle
- M. Punk Tree
- N. Rice Paper Plant
- O. Silk Oak
- P. Taro
- Q. Water Hyacinth
- R. Ailanthus (tree of heaven)

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

Tree Protection

Source: Code Enforcement

Revisions recommended in arborist report.

7.11.01 Tree Protection

- A. No application for a building permit, land clearing permit, site development permit, subdivision development permit, or grading and filling permit may be issued by the Building Official until the site inspector has visited the site and determined that the tree protection measures are in place in accordance with this chapter and the approved site or subdivision plans. Tree protection shall meet the standards of ANSI Standard A300 Part 5.
- B. During construction, to ensure the health and survival of protected trees that are not to be removed, the developer shall avoid the following types of tree injuries during all development activities:
 - 1. Mechanical injuries to roots, trunk, and branches. To protect against mechanical injuries to roots, trunk, and branches:
 - a. All existing trees that are to remain shall have barriers constructed around the tree at the drip line or around the combined drip line of any clumps of trees. Barriers are to be inspected by the Town prior to the start of any construction.
 - b. The minimum size of such wood barrier fencing shall be two inches (2") by four inches (4") and the top of the barrier shall be a minimum of four feet (4') high. Another acceptable means of barricading trees is the use of orange plastic construction fence, four feet (4') high, and supported every eight feet (8') by a No. 5 rebar, driven into the ground. Fencing shall be securely attached to rebar by the use of nylon zip ties or twisted wire. Barricades must be taut and perpendicular to the ground. No construction activity, cuts, fill, debris disposal or vehicular traffic is to take place within this area. Additionally, the storage or placement of material, machinery, or other construction equipment or substances is prohibited within the drip line area.
 - c. Any waiver or request to construct barriers within the drip line shall be reviewed by the Town. The request must be accompanied by a report from a qualified arborist. Where drip lines of existing trees overlap, the orange mesh fencing or the wood barriers shall be erected around the outer perimeter of the combined drip lines.

Turf Grass Percentage

Source: Code Enforcement

This amendment is to correct a discrepancy between the allowable percentage of turf grass allowed as lawn area. The allowable percentage is reported as 50% in one code location while the water conservation rules require 60% as drought tolerant plants. Essentially this is 40% irrigated turf grass. The 60% figure was added to the code when amendments were made for water conservation provisions, and the recommendation is to use the smaller allowance. Note that the portion of public right-of-way adjacent to a residential lot may be irrigated turf grass.

7.08.01 Required Landscaping

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

(NOTE: The percentage of lot area allowed for turf grass is revised to conform to Section 7.04.01 Florida Water Star Program.)

Workshop Definition and Rule

Source: Town Administrative Staff

The code on accessory structures includes a reference to a “workshop” and implies the rules for locating a workshop are different than for a storage shed. The proposed rule defines a workshop and requires that the location conform to the rules for storage sheds.

5.01.10 Workshops

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

(NOTE: Sections 5.01.10 Docks, Piers and Wharfs and Section 5.01.11 Flagpoles will be renumbered if this provision is added to the land development code.)

Visibility Triangle at Street and Driveway Intersection

Source: Code Enforcement

Regulating the placement of landscaping and other potential obstructions in the areas where drivers need to see ongoing traffic before entering a road are common safety rules in most ordinances. The Town’s code did not include a clearly stated requirement for protection of the visibility area, although there has been enforcement of the visibility need through the review of landscape plans. This code amendment will clarify the requirement and provide a sketch of the landscaped area to help property owners and designers comply with the requirement.

7.04.03 Landscaping Non-Single-Family Accessory and Secondary Structures

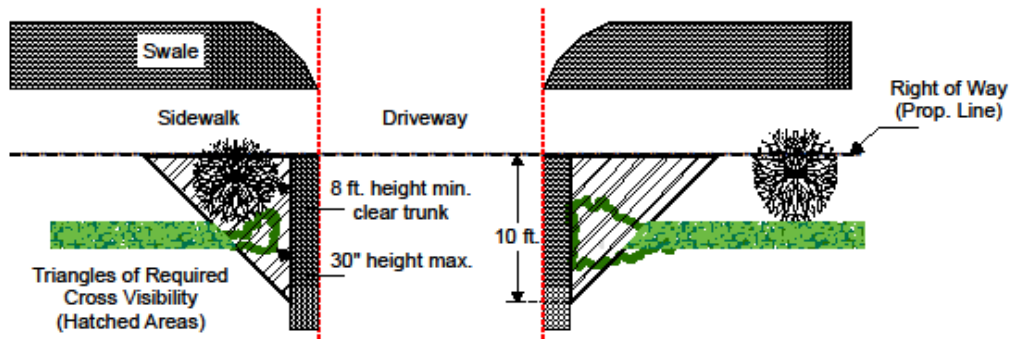
- A. If accessory structures or any sides of accessory structures are visible from public or private streets or parking areas, those structures or sides of structures shall be landscaped. If the accessory or secondary structure includes offices or customer areas, the structure shall be landscaped under the same requirements as section 7.04.01 (primary structures). If the accessory structure is used for storage or non-customer work areas, landscaping shall be designed to screen

visible outdoor mechanical equipment and to provide visual interest along the facades visible from streets or parking areas.

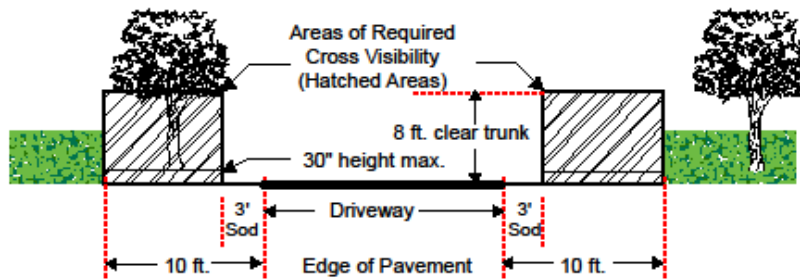
- B. Solid Waste Refuse Facilities. All dumpsters shall be enclosed on three sides with a six-foot block enclosure. The enclosure shall be of similar or compatible material to the primary structure such as stucco, brick, or stone. The fourth side (access) shall be screened with an opaque gate. The gate may be of wood or vinyl, but not chain link. The three sides of the enclosure shall be landscaped with bushes or hedges.
- C. Signs. Ground signs for non-residential areas shall be landscaped at the base with a minimum of 2 square feet of landscape material for every 2 feet of sign face. The irrigation system shall accommodate this landscaping.

7.04.04 Visibility Triangle at Intersections

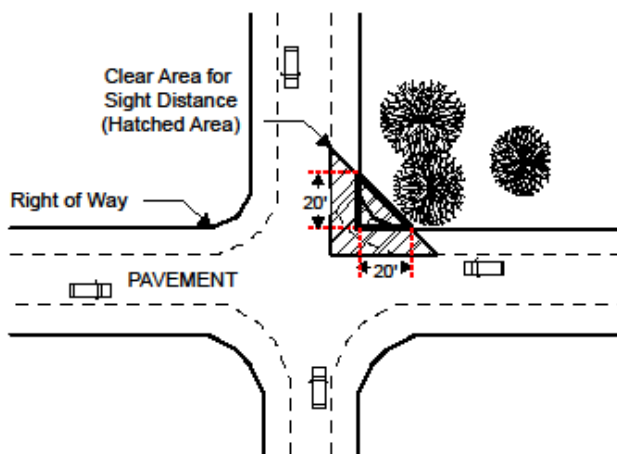
In order to preserve visibility at intersections of streets and at intersections of driveways with streets, a visibility triangle shall be provided as shown in the following diagram.



PLAN : Intersection of Driveway and Street



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



PLAN : Local Roadway in Subdivision

Tree Removal Permit Amendment

Source: Code Enforcement

In 2021 the Florida legislature adopted a law that pre-empts some local permitting requirements for tree removal. For single-family homes, a local government cannot require a permit to remove any tree that is certified by a qualified arborist as being diseased, damaged, or otherwise a threat to the property. The proposed amendment requires the property owner to submit a copy of the arborist's report to document the status of the tree to be removed. Otherwise a permit will be required to allow removal of the tree.

7.12.01 Permit Required

- A. Any person who proposes to cut down, move, remove, or destroy any tree, including those on single family lots, shall first obtain a tree removal permit from the Town unless otherwise exempt under F.S. 163.045. Prior to removal of any tree exempt from permitting under F.S. 163.045 the property owner shall provide to the Town a copy of the arborist report required by Section 163.045(2). Requests for tree removal permits shall be made to the ~~Public Works Director~~ Code Enforcement Officer. Trees that are located on vacant, undeveloped land shall not be removed except as permitted through the development of the site. Trees that are on the Town's prohibited tree list may be removed without a permit. Any application for a tree removal permit shall include the following:
1. Property owner's name and daytime telephone number.
 2. Street address and directions to the site.
 3. Type and size of tree proposed to be removed.
 4. Purpose for the tree removal.
 5. Most recently available boundary survey.
 6. General location of the tree on the site.
 7. How many trees remain on the lot or parcel.
- B. When determining whether to permit the tree removal, the following issues will be evaluated:
1. Whether the tree has a potentially hazardous branching structure such as a hollow trunk, low fork in the trunk, or other.
 2. Whether the tree is injured or diseased beyond repair.
 3. Whether there are no viable alternatives to locating structures or driveways on the site.
 4. Whether the tree is impacting the foundation of a house or other building or structure.
 5. Whether the tree poses a threat to traffic visibility.
 6. Whether the tree is negatively impacting a more desirable tree.
 7. Any other issue deemed important by the Town.
 8. Trees that are deemed hazardous or otherwise unsafe shall be allowed to be removed without mitigation. In circumstances where the condition supporting the removal of a tree is not obvious or easily documented by the

Town inspector, a letter from a certified arborist may be required to permit removal. In emergency situations, a hazardous tree may be removed as long as proper documentation in the form of photographs and/or a written opinion from Town staff, accompanies the permit application.

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

Definition of Street Tree

Source: code Enforcement

The term “street tree” is used in the code but has not been defined in the code. A street tree is a class of canopy tree planted in the right-of-way or on a residential lot as required by Section 7.08.00 Landscaping Individual Residences. Any tree planted and meeting the requirements of a street tree also qualifies as meeting the requirements for canopy trees.

Canopy Tree means a tree, usually with one main trunk, which develops an elevated crown and provides at maturity, a minimum shade crown of thirty feet (30’) in diameter or greater. [See also street tree.](#)

[**Street Tree** means any tree meeting the requirements for a canopy tree and planted to meet the requirements for a street tree as required by the code. See also canopy tree.](#)

Definition of Primary Façade

Source: Planning Board

For single-family residential units, the Planning Board recommended that any building façade facing a yard that abuts a street meet the requirements of a primary façade. The Town has been applying this definition to corner lots and in the case of the Venezia townhome project to through lots. (Townhome architectural detailing follows the same rule as single-family homes.) The amended definition proposed below clarifies that the primary façade rules apply to any building side that faces a street whether as a corner lot, through lot or lot that may face three or more streets. As was noted at the Planning Board meeting where this topic was discussed, recent state law limits the application of design rules to single-family and two-family dwelling to planned unit developments and selected other exemptions such as historic districts.

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

Clear Zone for Utility Meters

Source: Public Works

The public works staff is encountering problems in the field reading meters and doing maintenance work on potable water meters and reclaimed water meters as property owners install plantings in part to conceal meters. The public works staff is requesting an addition to the LDC to provide for a clear area that is only sod and/or mulch that will allow for full access to the meters. The following language is proposed for addition to the technical requirements for each system in Chapter 8.

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

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