

ORDINANCE NO. 85-26
(LANDSCAPE ORDINANCE)

AN ORDINANCE PERTAINING TO THE LANDSCAPING OF GROUND SURFACE AREAS WITHIN THE UNINCORPORATED AREAS OF HERNANDO COUNTY, FLORIDA; PROVIDING DEFINITION OF TERMS; PROVIDING FOR EXEMPTIONS; PROVIDING MINIMUM GENERAL LANDSCAPING REQUIREMENTS; PROVIDING SPECIFIC LANDSCAPING REQUIREMENTS; PROVIDING FOR INTERNAL LANDSCAPING OF PAVED GROUND SURFACE AREAS; PROVIDING FOR AND MAINTAINING VISIBILITY AT INTERSECTIONS; PROVIDING FOR TREE PROTECTION AND CREDIT FOR TREES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR WAIVERS AND VARIATIONS; PROVIDING FOR A SEVERANCE CLAUSE; PROVIDING PENALTIES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is of increasing importance and concern to improve the natural environment through the use of landscape elements; and

WHEREAS, the use of landscape elements can effectively aid in channeling of traffic and at the same time contribute to air purification, oxygen regeneration, noise absorption, glare and heat abatement, and increase water absorption due to the reduction of water runoff; thereby aiding in the preservation of the community's aesthetic qualities; and

WHEREAS, particularly relevant concerns in Hernando County are the problems of excessive water runoff and the lack of gradient and drainage access to the Gulf; thereby creating the need to prevent upsetting the hydrological balance that has evolved; and

WHEREAS, a landscape ordinance is hereby promulgated for the purpose of promoting community health, welfare, and general well being through the regulation of landscaping elements.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. INTRODUCTION: This ordinance is enacted under the Home Rule power of the County for the purpose of providing minimum landscaping standards in Hernando County in the interest of the public health, safety, and welfare of the citizens of Hernando County. This ordinance shall apply and be in force in all areas of Hernando County not within the boundaries of any municipality.

SECTION 2. DEFINITIONS: For the purpose of the administration and enforcement of this ordinance, unless otherwise stated, the following words shall have a meaning as indicated herein. Words used in the present tense shall include the future tense; words used in the singular numbers shall include the plural numbers; and the word 'shall' is mandatory, not directory.

1. Accessway: A paved area intended to provide ingress and egress of vehicular traffic from a public right-of-way to an off street parking area or loading area.

2. Clear: Clearing is the removal of trees, brush, rocks, or other vegetation.

3. DBH (Diameter, breast high): Average diameter of tree measured four and one-half (4 1/2) feet above ground level.

4. Developed Area: That portion of a plot or parcel upon which a building, structure, paved ground surface area, gravel landscaping or other improvements have been placed.

5. Encroachment: The protrusion of a vehicle into a vehicular accessway, pedestrian way, or landscaped area.

6. Frontage: Linear distance measured along all abutting street rights-of-ways.

7. Ground Cover: Shall consist of rocks on a non-compacted base, grasses, vines, shrubs, trees and plants planted, placed or growing in such a manner as to form a landscaped or natural cover over the ground.

8. Internal Landscape: Landscape development located within and surrounded by parking area on at least three sides.

9. Landscape Buffer Strips: Landscape areas containing ground cover, shrubs and trees, or other landscaping used to partition parking areas into individual bays.

10. Landscape Development: Trees, shrubs, ground cover, vines or grass installed for the purpose of fulfilling the requirements of this ordinance.

11. Minimum Specifications: The minimum specifications for all plant material which will be used in complying with the General Landscaping Requirements of this Ordinance.

12. Parking Areas: A paved ground surface area used for the parking of vehicles by employees or customers, either for compensation, or to provide an accessory service to a commercial, industrial or residential use.

13. Parking Bays: Parking areas subdivided into uninterrupted rows of parking spaces which are generally separated by only single or double painted lines.

14. Parking Spaces: A paved ground surface area used for the storage of a single vehicle to serve a primary use. Groups of spaces and abutting accessways are called parking bays.

15. Paved Ground Surface Area: Any paved ground surface area (excepting public rights-of-way) used for the purpose of driving, parking, storing, or display of vehicles, boats, trailers and mobile homes, including new and used car lots and other open lot uses. Parking structures, covered drive-in parking areas to the drip line of the covering or garages, shall not be considered as paved ground surface areas.

16. Planting Area: Any area designed for landscape planting.

17. Reconstruction: Rehabilitation or replacement of a structure or structures which either have been removed or damaged, or altered to an extent of seventy percent (70%) or more of the area of such structure or structures.

18. Screening Landscape: Landscape development located between paved parking areas and sidewalks, streets, other public rights of way and/or adjacent properties.

19. Shrubs: Self-supporting woody species of plants characterized by persistent stems and branches springing from the base or berm.

20. Street Line: That line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the street.

21. Trees: Self-supporting woody plants of species which normally grow to a minimum overall height of fifteen (15) feet and have an average mature crown spread greater than fifteen (15) feet in diameter. For purposes of this Ordinance, Sabal Palms (Cabbage) are considered trees.

22. Mobile Home Subdivision: A development designed for mobile home usage where lots are sold.

23. Mobile Home Park: A development designed for mobile home usage where lots are not owned by fee simple title to the land.

24. Recreational Vehicle Park: A development designed for short term recreational vehicle usage where lots are not owned by fee simple title to the land.

25. Vehicle: A form of transportation, including motorized and non-motorized vehicles designed and required to be licensed for use upon a highway in the State of Florida.

26. Vines: Any of a group of woody or herbaceous plants which can climb by twining, by means of aerial rootlets or by means of tendrils or which can simply sprawl over the ground or other plants.

SECTION 3. APPLICABILITY: It shall be unlawful for any person, firm, or corporation to clear, develop, or increase the developed area of any lot, parcel, plot, or tract of land unless in compliance with the terms of this ordinance or otherwise exempted by this ordinance.

SECTION 4. EXEMPTIONS:

1. All bona fide agricultural operations under agricultural zoning shall be exempt from the tree removal provisions of this Ordinance provided that: All property previously under a bona fide agricultural operation shall replant ten (10) trees (1 1/2" DBH or greater) per acre upon development pursuant to a rezoning from agricultural zoning. Bona fide agricultural operations means good faith commercial agricultural use of the land. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

- a. The length of time the land has been so utilized.
- b. Whether the use has been continuous.
- c. Size, as it relates to specific agricultural use.
- d. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforesting, and other accepted agricultural practices.
- e. Whether such land is under lease and, if so, the effective length, terms, and conditions of the lease.
- f. The maintenance of a dwelling on part of the lands used for agricultural purposes shall not in itself preclude

an agricultural classification.

- g. For the purposes of this section, "agricultural purposes" shall include horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture; and all forms of farm products and farm production.

2. All utility easements, either public or private, shall be exempt from the provisions of this Ordinance with regards to trees; however, a person developing or building upon his property must obtain the commercial plan approval required under this Ordinance prior to requesting installation of utilities.

3. All lands zoned for mining, and operating under an approved mining plan and permit in accordance with Hernando County's Mining Ordinance No. 78-6, are exempt.

4. All airfield areas and airfield approach zones are exempt from restrictions on tree removal.

5. On any agriculturally zoned lot or parcel with an existing residence located thereon, residential or agricultural residential zoned lot or parcel, trees may be removed provided the tree density and ground cover required by this Ordinance is maintained.

SECTION 5. GENERAL LANDSCAPING REQUIREMENTS: All ground surface areas of any lot, plot, tract or parcel of land however designated must maintain ground cover to eliminate erosion; the generation of fugitive dust particles; provide aesthetic relief from the works of man; and to further the objectives of this ordinance.

1. Objectives: In addition to those objectives stated in the preface hereof, the purpose of this section is to ensure the aesthetics of all areas in the County as per the standards in this ordinance, both residential and commercial so as:

- a. to ensure that noise, glare, and other distractions of movement within one area do not adversely affect activity within other areas;
- b. to ensure regeneration of oxygen;
- c. to ensure reduction of heat, glare, and other conditions concomitant with the construction of expanses of building or pavement within the parcel and to ensure the use of passive design concepts as

an energy conservation measure;

- d. reduce the amount of water lost in runoff;
- e. to ensure that the off street paved ground surface areas and the adjacent right-of-way are clearly and visually delineated;
- f. to ensure physical access between paved ground surface areas is effectively limited to established points of ingress and egress;
- g. to ensure that those established and acceptable ingress and egress points are clearly delineated;
- h. to ensure the protection and promulgation of the native vegetative resources of Hernando County through minimum landscape requirements in all unincorporated areas.

2. Installation: All landscaping shall be installed according to accepted commercial planting procedures. Soil, free of debris, shall be provided. All landscape areas developed in conjunction with industrial, commercial, or multi-family development shall be protected from vehicular encroachment by wheel stops or curbing. If curbing is used abutting landscaped areas, it shall be perforated to permit drainage from the paved ground surface areas onto the landscaped areas.

3. Maintenance: The owner of a property shall be responsible for the maintenance of all landscaping in good condition so as to present a neat, healthy, and orderly appearance free of refuse and debris. All restored landscaped areas developed in conjunction with commercial, industrial, or multi-family development shall be provided with an irrigation system or have a water supply available within 100 feet.

4. Plant Materials:

- a. Quality - Plant materials used in conformance with the provisions of this ordinance shall conform to the Standards for Florida No. 1 or better as given in Grades and Standards for Nursery Plants, State of Florida, Department of Agriculture and Consumer Services, Tallahassee, or equal thereto. Plant materials which are not adaptable to the area, as determined by the State University and Forestry Service shall not be used under the Ordinance.

- b. Native Plants - the use of native plant material is highly encouraged and recommended.
- c. Trees - Trees planted for credit under Section 10, shall be a minimum of six (6) feet in height or 1 1/2" or greater DBH when measured immediately after planting. In case of palms, the required measurement shall be six (6) feet from ground level to base of palm fronds. Trees shall be species having an average mature spread crown of greater than fifteen (15) feet in central Florida and having trunks which can be maintained in a clean condition for over six (6) feet of clear wood measured from the ground. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping the same so as to create the equivalent of fifteen (15) foot crown spread. Trees of species which have roots which are likely to cause damage to public roadways or other public works shall not be planted so as to damage such public works. Trees shall be planted in planting areas having a minimum area of twenty-five (25) square feet and a minimum radius of two and one-half (2 1/2) feet measured from the center of the tree trunk to the near edge of the landscape area.
- d. Shrubs - Shrubs shall be a minimum of twelve (12) inches in height when measured immediately after planting.
- e. Vines - Vines shall be a minimum of thirty (30) inches in height one (1) year after planting when used in conjunction with fences or screen to meet physical barrier requirement.
- f. Ground Covers - Ground covers other than grass shall be planted in such a manner as to provide reasonable complete coverage within one (1) year after planting.
- g. Lawn Grass - Grass areas shall be planted species normally grown as permanent lawns in the vicinity of Hernando County. Grass areas may be sodded, plugged, sprigged, or seeded except that solid sod shall be used on slopes greater than three percent.
- h. Synthetic Lawns - Synthetic, artificial turf or stone on a compacted base shall be prohibited.

- i. Synthetic Plants - Synthetic or artificial material in the form of trees, shrubs, ground covers or vines shall not be used in lieu of plant requirements in this section.
- j. Permanent Architectural Planters - The use of permanent architectural planters may be permitted in fulfillment of landscape requirements. Such architectural planter shall contain not less than ten (10) square feet and shall have a least dimension of not less than fifteen (15) inches in width.

SECTION 6. RECOMMENDED LANDSCAPE SPECIES FOR PROTECTION AND REPLACEMENT. A recommended list of trees and vegetation for preservation and replacement to meet the minimum specifications of this Ordinance may be obtained from the County forester's office, the County Extension service, or the County's Planning and Development Department. For purposes of landscape protection and replacement the following exotic species of vegetation shall not be considered as trees:

- A. Melaleuca (Punk Tree)
- B. Australian Pine
- C. Brazilian Pepper
- D. Chinaberry
- E. Mimosa
- F. Adam's Needle

SECTION 7. SPECIFIC LANDSCAPING REQUIREMENTS. Unless otherwise exempted by this Ordinance, all lots, plots, tracts or parcels of land shall maintain ground cover in all areas not specifically authorized as a developed area. In addition, all paved ground surface areas shall meet the following specific landscaping requirements which shall be considered complementary to the landscaping provisions of any other Hernando County ordinance or resolution. The total of screening landscape plus internal landscaping described herein shall not be less than ten percent (10%) of the total developed area.

1. Required Landscaping Adjacent to Public Rights-of-Ways for Commercial, Industrial and Multi-family sites: Where paved ground surface areas are located adjacent to sidewalks, streets, and other public rights-of-way, landscaping shall be provided between the public right-of-way and the paved ground surface area. Said landscaping shall include: a landscaped yard at least five (5) feet in width containing an opaque screen of landscaping at least three (3) feet in height. Said screen may be composed of a berm at least two (2) feet in height, or a screen of landscaping at least two and one-half (2.5) feet in height at time of planting. If a berm is utilized, additional landscaping at least one (1) foot in height shall be planted. If a screen of living landscaping material is

utilized, it shall attain opacity and a height of three (3) feet within twelve (12) months of planting under normal growing conditions. There shall be a minimum of ten (10) trees per acre planted or maintained along the lot lines and internal landscaping.

2. Required Landscaping Adjacent to Other Properties:

Where paved ground surface areas of commercial, industrial, and multi-family sites are adjacent to surrounding properties, landscaping shall be installed to screen paved ground surface area from adjacent properties as provided below. Screening is not required if the paved ground surface area is completely screened from surrounding properties by intervening buildings or structures.

- a. Adjacent to Residential - Where commercial, industrial or multi-family land uses are adjacent to properties zoned exclusively for residential land uses, all land between the paved ground surface area and the property line shall be landscaped. Said landscaping shall include: a berm at least two (2) feet in height, or a hedge or other durable screen of landscaping at least six (6) feet in height. If a berm is utilized, additional landscaping at least one (1) foot in height at time of planting shall be installed. Where said screen of landscaping is composed of living plant material, it shall be thirty (30) inches in height at time of planting and shall attain opacity within twelve (12) months under normal growing conditions. A minimum of ten (10) trees per acre shall be planted or maintained along the lot lines and internal landscaping .

- b. Non-Residential - Where the adjacent property to an existing zoned commercial, industrial or multi-family site is zoned for non-residential land use or where the adjacent property contains a conforming hedge, wall, or other durable landscape feature, the provisions of Section 7, Part 2A shall not apply to the rear lot lines, except that the tree planting provisions shall still apply. Said trees shall be installed in the buffer areas adjacent to each of the adjoining properties.

3. Internal Landscaping Regulations: All parking areas and other paved ground surface areas used on commercial, industrial or multi-family sites shall have internal landscaping to provide visual and climatic relief from broad expanses of pavement and channelize and define logical areas for pedestrian and vehicular circulation.

- a. Within each parking area of 10,000 square feet or more there shall be an area of landscaping equal to at least a minimum of five percent (5%) of the paved area which shall be reasonably distributed within each 10,000 square feet area so as to be pro-rated to fulfill the objectives of this ordinance.
- b. Fifty (50) percent of the ten (10) trees per acre required by this Ordinance must be planted in the internal landscaping areas. All internal landscaping shall be protected from vehicular encroachment by curbing, wheel stops or such other method as approved by the planning agency.

4. Intersection Visibility: Where an accessway intersects a public right-of-way on a commercial, industrial or multi-family site, landscaping shall be used to define the intersection, provided, however, that all landscaping within the triangular areas described below shall provide un-obstructed cross-visibility at a level between two (2) and six (6) feet. Trees having limbs and foliage extend into cross visibility shall be allowed provided they are so located so as to not create a traffic hazard. Landscaping, except grass and ground cover, shall not be located closer than three (3) feet from the edge of any accessway pavement. The triangular areas are: The areas of property on both sides of an accessway and the public right-of-way pavement line with two (2) sides of each triangle being ten (10) feet in length from the point of intersection and the third side being a line connecting the ends of the other sides.

The area of property located at a corner formed by the intersection of two or more public streets with two (2) sides of the triangular area being measured thirty (30) feet in length along the abutting edges of pavement, from their point of intersection, and the third being a line connecting the ends of the other two lines.

SECTION 8. RESIDENTIAL LANDSCAPE REQUIREMENTS: All single or two family residential properties shall be required to comply with the ground cover requirements of this Ordinance. In addition, each lot shall have a minimum of two (2) trees per lot up to 10,000 square feet in size plus one tree per each additional 5,000 square feet of lot size. This requirement shall be met prior to and as a condition of obtaining a certificate of occupancy.

SECTION 9. MOBILE HOME AND RECREATIONAL VEHICLE PARKS: Within any mobile home subdivision, mobile home park or recreational vehicle park, the landscaping provisions of this Ordinance shall apply including the provision of ten (10) trees per acre. Said trees shall be distributed on the site with a minimum of 50 percent dispersed evenly throughout the park or subdivision, exclusive of the periphery setback. There

shall be a landscaped buffer strip equal to the setback requirement of the Hernando County Land Use Ordinance along streets abutting a mobile home or recreational vehicle park, and along other mobile home or recreational vehicle park boundaries.

All buffer strips, except waterfront, shall contain plant or structural screen which shall meet a 75 percent or better opaqueness, shall be 6 feet in height, except for sight requirements at points of access to public roadway, and shall extend the length of the buffer strip, not necessarily in a straight line, except for driveway and pedestrian openings. Newly planted screen plants should meet the height requirements within 12 months after planting. The landscaped buffer strip shall be separate from mobile home or recreational vehicle sites, recreation areas, street rights-of-way utility areas, but may be utilized for drainage structures or utilities distribution and collection.

As a condition of approval of the development of a mobile home or recreational vehicle park, the developer shall comply with the landscape provisions of this section.

Any mobile home subdivision, in addition to meeting the buffering requirements of this section, shall be required to have a minimum of one (1) tree per 5,000 square foot of lot area.

SECTION 10. TREE PROTECTION AND CREDIT FOR TREES: All trees greater than six (6) inches DBH existing on the areas not approved for development on any lot, plot, tract, or parcel of land at the time of development, shall be preserved through the development process and shall be maintained after development as a part of the required landscaping provided that this restriction on tree removal will not apply to those trees above a threshold of ten (10) trees per acre or a canopy cover exceeding 25% of the lot area. Any tree maintained for credit in compliance with this Ordinance shall be given credit against the landscape area requirements of this Ordinance to the following schedule:

Large Trees	6-12" DBH.....	400 square feet
Small Trees	1 1/2-6" DBH	100 square feet.

SPECIMEN TREES: Any tree with a diameter breast height (DBH) eighteen (18) inches or greater shall be classified as a specimen tree and shall be preserved unless the tree is within six feet of a site approved for a building. The Planning and Development Staff shall be authorized to reduce the required parking by one (1) space per 10 required parking spaces or fraction thereof if the specimen tree is saved by the minor reduction in the required parking. The Board of County Commissioners is empowered to make minor deviations from development regulations or to authorize removal of specimen trees.

SECTION 11. PLAN APPROVAL:

1. Appropriate site plans showing proposed landscape development including specimen trees shall be submitted to the Hernando County Department of Planning and Development for site plan approval by that Department. The site plan shall be drawn to scale normally of not less than one (1) inch equaling thirty (30) feet including dimensions and distances and clearly delineating the existing and proposed landscape development. A different scale may be permitted for good cause shown. Such site plan shall also include detailed drawings of the entire off-street parking area and the location of proposed buildings.

2. Single and two family residential property is exempt from the requirements of furnishing a plan approval as required of other properties in the ordinance.

SECTION 12. CERTIFICATE OF OCCUPANCY: A qualified representative of the agency charged with the issuance of building permits shall inspect all landscaping and no certificate of occupancy or similar authorization shall be issued unless the landscaping meets the requirements herein provided. The final Certificate of Occupancy shall be contingent upon the successful implementation of the landscape plan and final approval by the County Inspector.

SECTION 13. ENFORCEMENT:

1. The Department of Planning and Development shall be the enforcing agency. The enforcing agency shall be charged with the duty of administering the provisions of this ordinance and securing compliance therewith. In furtherance of this responsibility, the enforcing agency shall:

- a. make such inspections as may be necessary to carry out the purposes and intent of this ordinance and to initiate appropriate action to bring about compliance with this ordinance if such inspections disclose any instance of non-compliance.
- b. investigate thoroughly any complaints of alleged violations of this ordinance and indicate clearly in writing as a public record in his office the dispositions made of such complaints.
- c. order in writing as set out below the remedy of all conditions of all violations of this ordinance found to exist in or on any premises.

- d. state the violations and order a time limit for compliance herewith as hereinafter set out.
- e. request the assistance of the County Attorney in taking appropriate legal action upon the failure of the responsible party to comply with such violation order at the time specified therein.

SECTION 14. WAIVERS AND VARIATIONS: After a report from the planning agency, the Board of County County Commissioners may waive the requirements of these regulations where compliance would be a practical impossibility or would cause unnecessary hardship and/or where the owner proposes an alternative which conforms to the general intent and spirit of these regulations.

SECTION 15. ZONING BOARD OF ADJUSTMENTS AND APPEALS TO ACT AS APPEALS BOARD. Any person adversely affected by a decision of the Department of Development in the interpretation of any terms or provisions of this ordinance may appeal such decision to the Zoning Board of Adjustments and Appeals. Such appeal shall be made to the Board within thirty (30) days after the decision of the Department of Development. The Board shall set a time and place for the purpose of allowing the applicant to be heard. The Board shall thereafter either grant or deny the application in whole or in part and notify the applicant in writing of its decision.

SECTION 16. SEVERABILITY OF CONSTRUCTION: If any section, subsection, phrase, sentence, or 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, distinct and independent provision; and such holding shall not affect the validity of the remaining portions thereof.

SECTION 17. CONFLICTING ORDINANCES REPEALED: All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 18. VIOLATIONS AND PENALTIES: Any person, firm, or corporation found guilty of violating any of the provisions of this ordinance shall be guilty of a second degree misdemeanor, which, upon conviction, shall be punishable by a fine not to exceed \$500.00 and up to sixty (60) days in jail. Remedies for illegal tree removal may include replacement with trees of similar species to the total diameter inches of the trees illegally removed. Each day that an offense or violation of this ordinance continues shall be deemed a separate offense. For violations involving the removal of trees, each tree that is removed in violation of the terms of this ordinance shall be considered a separate offense.

SECTION 19. TITLE REFERENCE: This ordinance shall be

referred to as the Hernando County Landscape Ordinance.

SECTION 20. EFFECTIVE DATE: A certified copy of this ordinance shall be filed in the Department of State by the Clerk of the Board of County Commissioners and shall take effect upon receipt of official acknowledgment from that office the the same has been filed.

ADOPTED IN REGULAR SESSION THIS 19th DAY OF November, 1985, A.D.

BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA

BY: Leonard F. Pina Jr.

ATTEST: Paul Dorris, Deputy Clerk