

ORDINANCE 2022-012

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA AMENDING ARTICLE 37 OF THE LAND DEVELOPMENT CODE, NATURAL RESOURCE PROTECTION; TO AMEND SECTION 37.05 LANDSCAPING STANDARDS FOR ONE AND TWO-FAMILY LOTS ADJACENT TO RIGHTS-OF-WAY AND STREETS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Nassau County adopted the Natural Resource Protection Ordinance, 2008-01, which requires specific plantings and buffers for new development; and

WHEREAS, the ordinance requires that internal streets in subdivisions provide for separate tracts of land along streets to be planted and owned or controlled by the property owners' association; and

WHEREAS, requiring a separate tract of land along streets could inhibit the ability of property owners to obtain vehicular access to their property; and

WHEREAS, allowing planting of required perimeter trees within the front yard of properties would eliminate the need for a separate tract of land along the street; and

WHEREAS, whereas property owners are now responsible for minimum tree planting requirements for one and two-family homes, the required perimeter trees would become the property owner's responsibility; and

WHEREAS, removing what could be considered a "spite strip" from the frontage of one and two-family properties would provide for clear property delineation and rights; and

WHEREAS, the Planning and Zoning Board conducted a public hearing on this Ordinance on May 3, 2022 and voted to recommend approval to the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners conducted a public hearing on this Ordinance on June 13, 2022 and approved the Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA:

SECTION 1. FINDINGS

This Ordinance is consistent with the Comprehensive Plan, in particular with Conservation Element Objective CS.03 and Property Rights Element Policy PR.01.01, and also with the Land Development Code.

SECTION 2. AMENDMENT

Section 37.05, *Landscaping*, subsections D.9 through D.11, *Perimeter landscaping adjacent to rights-of-way and streets*, are amended as set forth herein:

9. ~~For one and two family residential developments where all lots/building sites measure five (5) acres in area or greater and have a minimum of one hundred (100) feet of frontage on a~~

~~street, the required perimeter landscape strip adjacent to a street or right of way may be included within the lot/building site. The installation of plant material may take place with the construction of the home on that particular lot/building site. For all other cases, Except as otherwise stated below,~~ the perimeter landscape strip adjacent to a street or ROW shall be in a separate tract of land under the control of the home owners association, property owners association, special district, or equivalent, and not included within a lot/building site. The following exceptions shall apply:

- i. There is hereby established an exception to this section for those one- and two-family lots/building sites accessed from an existing public street or ROW and (1) have no other street or ROW frontage, (2) have no other means of vehicular access, and (3) the front of the home will face towards the existing public street or ROW. In these situations, the area between the street or ROW and the one- or two- family home shall be defined as the Enhanced Landscape Area (ELA). Within the ELA, at the time of home construction, the owner shall cause to be planted no less than the minimum number of trees required pursuant to Sec. 37.05.D LDC and, where applicable, Sec. 37.06 LDC prior to the Certificate of Occupancy being issued. The owner shall be responsible for maintenance.
- ii. The perimeter landscape strip adjacent to a street or ROW is not required along private streets within a one- or two- family development. Nothing herein prevents an owner or developer from establishing a perimeter landscape strip if desired.

10. For Double Frontage Lots, there shall be established a perimeter landscape strip adjacent to the street or ROW between the rear of the Lot and a street or ROW. The landscape strip shall be in a separate tract of land under the control of the home owners association, property owners association, special district, or equivalent, and not included within a lot/building site. In addition to the minimum tree planting requirements of this Ordinance, the required perimeter landscape strip shall include a 100% opaque fence or berm a minimum of 6' tall. The installation of a wall or fence shall be located on the inner most boundary (behind the vegetation as viewed from outside the development) of the perimeter landscape strip adjacent to a ROW or street, required uncomplimentary land use buffer, or other landscaped area. The perimeter landscape strip shall include a ground layer, mid-ground layer and understory layer in addition to the canopy layer as depicted in the below diagrams. It is the intent of Nassau County to establish both vertical and horizontal depth within the perimeter landscape strip.

Planting Elevation Example

A Perimeter Bed planting plan can mass plant material of varying heights and widths within the planting bed in order to add interest when viewed from all sides.



Figure credit: Sue Ann Allegor, Nassau County, FL Dept. of Planning and Economic Opportunity



- 110.** Back flow preventer(s) and lift stations shall generally be to the side or rear of a building. Where they cannot be placed at the side or rear of a building, it shall be screened from public rights-of-way through the use of shrubs planted as a hedge meeting the standards of section 37.05.B.2 of this Code. Driveways to these facilities are allowed through the landscape buffer.

SECTION 3. CODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall be included and incorporated into the LDC. The codifier may re-letter or renumber sections to conform to the uniform numbering and style of the LDC.

SECTION 4. SEVERABILITY


It is the intent of the Board of County Commissioners, and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 5. EFFECTIVE DATE

This ordinance shall take effect upon filing with the Secretary of State as provided in Section 125.66, Florida Statutes.

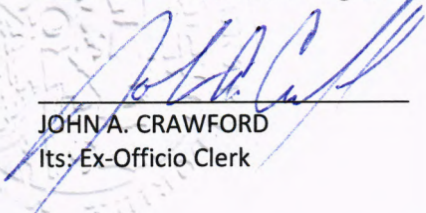
ADOPTED THIS 13th DAY OF June, 2022 BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



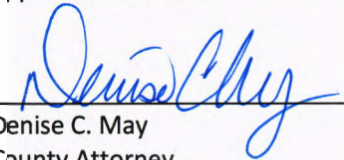
Jeff Gray
Its: Vice Chairman

ATTEST as to Chairman's Signature:



JOHN A. CRAWFORD
Its: Ex-Officio Clerk

Approved as to form:



Denise C. May
County Attorney