

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE, ORDINANCE 2003-067, AS AMENDED, AS FOLLOWS: **ARTICLE 2 – APPLICATION PROCESSES AND PROCEDURES:** CHAPTER B, PUBLIC HEARING PROCESSES, **ARTICLE 4 – USE REGULATIONS:** CHAPTER B, USE CLASSIFICATION; **ARTICLE 11 – SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS:** CHAPTER E, REQUIRED IMPROVEMENTS; PROVIDING FOR: INTERPRETATION OF CAPTIONS; REPEAL OF LAWS IN CONFLICT; SEVERABILITY; A SAVINGS CLAUSE; INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE; AND, AN EFFECTIVE DATE.

WHEREAS, Section 163.3202, Florida Statutes, mandates the County compile Land Development Regulations consistent with its Comprehensive Plan into a single Land Development Code; and

WHEREAS, pursuant to this statute the Palm Beach County Board of County Commissioners (BCC) adopted the Unified Land Development Code (ULDC), Ordinance 2003-067, as amended from time to time; and

WHEREAS, the BCC has determined that the proposed amendments further a legitimate public purpose; and

WHEREAS, the Land Development Regulation Commission has found these amendments to the ULDC to be consistent with the Palm Beach County Comprehensive Plan; and

WHEREAS, the BCC hereby elects to conduct its public hearings on this Ordinance at 9:30 a.m.; and

WHEREAS, the BCC has conducted public hearings to consider these amendments to the ULDC in a manner consistent with the requirements set forth in Section 125.66, Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. Adoption

The amendments set forth in Exhibit A listed below, attached hereto and made a part hereof, are hereby adopted.

Section 2. Interpretation of Captions

All headings of articles, sections, paragraphs, and sub-paragraphs used in this Ordinance are intended for the convenience of usage only and have no effect on interpretation.

Section 3. Repeal of Laws in Conflict

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 4. Severability

If any section, paragraph, sentence, clause, phrase, word, map, diagram, or any other item contained in this Ordinance is for any reason held by the Court to be unconstitutional,

1 inoperative, void, or otherwise invalid, such holding shall not affect the remainder of this
2 Ordinance.

3 **Section 5. Savings Clause**

4 All development orders, permits, enforcement orders, ongoing enforcement actions, and
5 all other actions of the Board of County Commissioners, the Zoning Commission, the
6 Development Review Officer, Enforcement Boards, all other County decision-making and
7 advisory boards, Special Masters, Hearing Officers, and all other County officials, issued pursuant
8 to the regulations and procedures established prior to the effective date of this Ordinance shall
9 remain in full force and effect.

10 **Section 6. Inclusion in the Unified Land Development Code**

11 The provisions of this Ordinance shall be codified in the Unified Land Development Code
12 and may be reorganized, renumbered or re-lettered to effectuate the codification of this
13 Ordinance.

14 **Section 7. Providing for an Effective Date**

15 The provisions of this Ordinance shall become effective upon filing with the Department
16 of State.

17 **APPROVED and ADOPTED** by the Board of County Commissioners of Palm Beach
18 County, Florida, on this the 28th day of May, 2020.


SHARON R. BOCK, CLERK &
COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY
COMMISSIONERS

By: 
Deputy Clerk

By: 
Dave Kerner, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 
Scott A. Stone, County Attorney

19 **EFFECTIVE DATE:** Filed with the Department of State on the 10th day of
20 June, 2020.

EXHIBIT A

ARTICLES 2, 4, AND 11 – LANDSCAPE SERVICE IN THE AR/RSA ZONING DISTRICT AND ACCESS REQUIREMENTS

Part 1. ULDC Art. 2.B.7.D, Application Processes and Procedures, Public Hearing Processes, Types of Applications, Type 2 Waiver (page 35 and 36 of 101, Supplement 27 is hereby amended as follows:

1 **CHAPTER B PUBLIC HEARING PROCESSES**

2

3 **Section 7 Types of Applications**

4

5 **D. Type 2 Waiver**

6 **1. Purpose**

7 A Type 2 Waiver is to allow flexibility for mixed use or infill redevelopment projects, or
 8 architectural design, site design or layout, where alternative solutions can be allowed, subject
 9 to performance criteria or limitations. Type 2 Waivers are not intended to relieve specific
 10 financial hardship nor circumvent the intent of this Code. A Type 2 Waiver may not be granted
 11 if it conflicts with other Sections of this Code, or the Florida Building Code. **[Ord. 2011-016]**
 12 **[Ord. 2012-027] [Ord. 2018-002]**

13 **2. Applicability**

14 Requests for Type 2 Waivers shall only be permitted where expressly stated within the ULDC
 15 or indicated in the following Table. **[Ord. 2011-016] [Ord. 2012-027] [Ord. 2018-002]**
 16

Table 2.B.7.D – Summary of Type 2 Waivers

Urban Redevelopment Overlay (URAO)	Table 3.B.16.G, Type 1 and 2 URAO Waivers
WCRAO Expansion of Existing Non-Conforming Parking	Art. 3.B.14.B.1.a, Expansion of Existing Non-Conforming Parking
WCRAO Density Bonus Programs	Art. 3.B.14.H.2, Other Density Bonus Programs
IRO Residential Setbacks	Art. 3.B.15.F.6.e.4)a), Residential Setbacks
URA Residential Setbacks	Art. 3.B.16.E.3.a, Residential Setbacks
PDD Minimum Frontage	Art. 3.E.1.C.2.a.1)a), Type 2 Waiver – Infill Development
PDD Cul-de-sacs	Art. 3.E.1.C.2.a.5)b), Type 2 Waiver for additional percentage
AGR Tier – Parking Structure	Art. 3.F.2.A.2.d.1)a), Type 2 Waiver for Parking Structures
AGR-TMD – Block Structure	Art. 3.F.4.D.9.a, Type 2 Waiver for Block Structure
Commercial Communication Towers	Art. 4.B.9.H.5, Type 2 Waiver from Required Dimensional Criteria
Unique Structure	Art. 5.C.1.E.2, Unique Structure
Hours of Operation	Art. 5.E.5.E, Type 2 Waiver
Large Scale Commercial Development – Parking	Art. 6.B.2.A.1.b.1)d), Type 2 Waiver
<u>Minimum Legal Access for Collocated Landscape Service in the AR/RSA and AR/USA Zoning Districts</u>	Table 11.E.2.A-2, Chart of Minor Streets
[Ord. 2018-002] [Ord. 2018-018] [Ord. 2019-005]	

17 **3. Standards for a Type 2 Waiver**

18 When considering a DO application for a Type 2 Waiver, the BCC shall utilize the Standards
 19 indicated below and any other standards specific to a Type 2 Waiver ~~as contained in this Code~~.
 20 For a Unique Structure, refer to the Standards listed in Art. 2.B.7.D.4 below, and for a
 21 commercial communication tower, refer to Art. 4.B.9.H.5.d, Criteria for Granting a Type 2
 22 Waiver. For Minimum Legal Access for Collocated Landscape Service, refer to Art. 11,
 23 Subdivision, Platting, and Required Improvements. A Type 2 Waiver, which fails to meet any
 24 of the Standards, shall be deemed adverse to the public interest and shall not be approved.
 25 **[Ord. 2011-016] [Ord. 2012-027] [Ord. 2018-002]**

- 26 a. The Waiver does not create additional conflicts with other requirements of the ULDC, and
 27 is consistent with the stated purpose and intent for the zoning district or overlay; **[Ord.**
 28 **2010-022] [Ord. 2011-016] [Ord. 2012-027] [Ord. 2018-002]**
- 29 b. The Waiver will not cause a detrimental effect on the overall design and development
 30 standards of the project, and will be in harmony with the general site layout and design
 31 details of the development; and, **[Ord. 2010-022] [Ord. 2012-027] [Ord. 2018-002]**
- 32 c. The alternative design option recommended as part of the Waiver approval, if granted, will
 33 not adversely impact adjacent properties. **[Ord. 2010-022] [Ord. 2012-027] [Ord. 2018-**
 34 **002]**
- 35 d. For the purpose of Medical Marijuana Dispensing Facility in Art. 4.B.2.C.35.i, the BCC shall
 36 make the determination that the location of a medical marijuana dispensing facility
 37 promotes the health, safety, and welfare of the community. **[Ord. 2017-028] [Ord. 2018-**
 38 **002]**
 39

Notes:

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EXHIBIT A

ARTICLES 2, 4, AND 11 – LANDSCAPE SERVICE IN THE AR/RSA ZONING DISTRICT AND ACCESS REQUIREMENTS

Part 2. ULDC Art. 4.B.2.C.21, Use Regulations, Use Classification, Commercial Uses, Definitions and Supplementary Use Standards for Specific Uses, Landscape Service (pages 42 and 43 of 199, Supplement 27), is hereby amended as follows:

1 CHAPTER B USE CLASSIFICATION

2

3 Section 2 Commercial Uses

4

5 C. Definitions and Supplementary Use Standards for Specific Uses

6

7 21. Landscape Service

8

9 g. AR District in RSA

10 Shall be permitted subject to applicable requirements of a Home Occupation pursuant to
11 Art. 4.B.1.E.10, Home Occupation; Art. 4.B.2.C.21.h, Collocated Use; or, as a Principal
12 Use subject to the additional requirements as follows: **[Ord. 2019-039]**

13 1) Shall be located on a Collector or Arterial Street; and **[Ord. 2019-039]**

14 2) Shall be on a minimum of three acres. **[Ord. 2019-039]**

15 h. Collocated Use

16 Shall be allowed only in conjunction with a Retail or Wholesale Nursery, and both uses
17 shall be operated under the same ownership, subject to the following: **[Ord. 2019-039]**

18 1) AGR, AP, CN, CRE, and PO Zoning Districts

19 a) Approval Process – Full DRO

20 (1) A minimum of 50 percent of the lot area shall be Retail or Wholesale Nursery;
21 **[Ord. 2019-039]**

22 (2) A maximum of 30 percent of the lot area or one and one-half acres, whichever
23 is less, shall be Landscape Service (On-Site Activities); and, **[Ord. 2019-039]**

24 (3) The areas designated for Common Operations Area shall be a maximum of 20
25 percent of the lot area. **[Ord. 2019-039]**

26 b) Approval Process – Class A Conditional Use, except the AGR Zoning District

27 (1) A minimum of 50 percent of the lot area shall be Retail or Wholesale Nursery;
28 **[Ord. 2019-039]**

29 (2) A maximum of 45 percent of the lot area or two acres, whichever is less, shall
30 be Landscape Service (On-Site Activities); and, **[Ord. 2019-039]**

31 (3) The areas designated for Common Operations Area shall be a maximum of 20
32 percent of the lot area. **[Ord. 2019-039]**

33 2) CC or CG Zoning Districts

34 a) Approval Process – Full DRO

35 (1) A minimum of 50 percent of the lot area shall be Retail and/or Wholesale
36 Nursery; **[Ord. 2019-039]**

37 (2) A maximum of 30 percent of the lot area or one and one-half acres, whichever
38 is less, shall be Landscape Service (On-Site Activities); and, **[Ord. 2019-039]**

39 (3) The area designated for Common Operations Area shall be a maximum of 20
40 percent of the lot area. **[Ord. 2019-039]**

41 3) IL, IG, and IND/L, COM, or IND/G Pods of a PIPD Zoning District

42 A Landscape Service use may be Permitted by Right when collocated with Wholesale
43 or Retail Nursery. **[Ord. 2019-039]**

44 4) AR/RSA Zoning District

45 a) Shall be on a minimum of three acres; ~~and~~. **[Ord. 2019-039]**

46 b) *The area(s) designated for Landscape Service (On-Site Activities) shall be a*
47 *maximum of 30 percent of the Growing Area or one acre, whichever is less. [Ord.*
48 *2019-039] [Relocated from Art 4.B.2.A.21.h.4)c), Lot Size Greater than or*
49 *Equal to Three Acres and Less]*

50 c) Approval Process

51 A Landscape Service shall be subject to a Class A Conditional Use approval
52 process, unless stated otherwise below: **[Ord. 2019-039]**

53 (1) Exception

54 A Landscape Service may be subject to the Full DRO process if the Applicant
55 submits an application and is determined to be sufficient by the DRO within
56 ~~480~~195 calendar days of the effective date of Ordinance 2019-039 (June 17,
57 2020), and provides sufficient evidence that the Landscape Service existed on
58 the subject property prior to ~~that date June 2, 2020~~. **[Ord. 2019-039]**

59 ~~c) Lot Size Greater Than or Equal to Three Acres and Less Than or Equal to~~
60 ~~Five Acres~~

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- 1 ~~The area(s) designated for Landscape Service (On-Site Activities) shall be a~~
 2 ~~maximum of 30 percent of the Growing Area or one acre, whichever is less. [Ord.~~
 3 ~~2019-039] [Relocated to Art 4.B.2.A.21.h.4)b)]~~
 4 ~~d) Lot Size Greater Than Five Acres~~
 5 ~~The area(s) designated for Landscape Service (On-Site Activities) shall be a~~
 6 ~~maximum of 30 percent of the Growing Area or one and one-half acres, whichever~~
 7 ~~is less. [Ord. 2019-039]~~
 8 5) AR/USA, RE, RT, RM, RS, UC, UI, CH-MUPD, CH-MXPD, NC-TND, and TMD within
 9 the U/S, Rural, or Exurban Tiers
 10 a) Shall be on a minimum of three acres; and [Ord. 2019-039]
 11 b) **Approval Process – Class A Conditional Use**
 12 (1) The area(s) designated for Landscape Service (On-Site Activities) shall be a
 13 maximum of 30 percent of the Growing Area or one acre, whichever is less.
 14 [Ord. 2019-039]
 15 6) **Location – Access**
 16 a) **AR/RSA and AR/USA Zoning Districts**
 17 ~~Minimum access shall be in accordance with Art. 11.E.2.A.2, Minimum Legal~~
 18 ~~Access Requirement, unless a Type 2 Waiver is granted pursuant to Art. 2.B.7.D,~~
 19 ~~Type 2 Waiver.~~
 20 b) **AGR Zoning Districts**
 21 ~~Minimum access shall be any Legal Access, as defined by Art. 1.H.2, Definitions,~~
 22 ~~that exists at the time of application for Landscape Service use approval. If the~~
 23 ~~existing access is not legal, then minimum access shall be in accordance with Art.~~
 24 ~~11.E.2.A.2, Minimum Legal Access Requirement, unless a Type 2 Variance is~~
 25 ~~granted pursuant to Art. 2.B.7.E, Type 2 Variance.~~
 26 c) **Other Zoning Districts**
 27 ~~Minimum access in the RE, RT, RM, RS, UC, UI, CH-MUPD, CH-MXPD, NC-TND,~~
 28 ~~and TMD within the U/S, Rural, or Exurban Tier Zoning Districts shall be in~~
 29 ~~accordance with Art 11.E.2.A.2, Minimum Legal Access Requirement, unless a~~
 30 ~~Subdivision Variance is granted pursuant to Art. 2.B.7.E, Type 2 Variance.~~
 31

Part 3. ULDC Art. 11.E.2, Subdivision, Platting, and Required Improvements, Required Improvements, Access and Circulation Systems (page 35 and 36 of 45), Supplement 27 is hereby amended as follows:

32 **CHAPTER E REQUIRED IMPROVEMENTS**

33

34 **Section 2 Access and Circulation Systems**

35

36 **26. Access Waiver for Collocated Landscape Service in the AR Zoning District**

37 ~~The dimensional requirement pursuant to Table 11.E.2.A-2, Chart of Minor Streets shall be~~
 38 ~~allowed if Standards a through c of Art. 2.B.7.D, Type 2 Waiver and the following is met:~~

- 39 a. ~~The Waiver shall not be injurious to the area involved or otherwise detrimental to the public~~
 40 ~~welfare.~~

41

Table 11.E.2.A-2 – Chart of Minor Streets

Classification	Minimum Width (Feet)		Maximum Allowable ADT	Allowed as Legal Access For (1)	
	Street (2)	Pavement (3)		Commercial	Residential
Non-Plan Collector (6)	80	24	13,100	X	
Marginal Access	50	24	N/A	X	X
Local Residential (4)					
Gutters	50	20	1,500		X
Swales	60	20	1,500		X
Local Commercial (6)	80	24	13,100	X	X
Residential Access					
One Sidewalk	40	20	800		X
No Sidewalk (5)	32	20	40		X
[Ord. 2014-025] [Ord. 2019-034]					
Notes:					
1.	An "X" under the Commercial or Residential column indicates the corresponding street classification is allowed as legal access.				
2.	Street width refers to standard R-O-W or private street tract width.				
3.	Pavement width represents two travel lanes of equal width and does not include the additional width of paved shoulder where required.				

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Table 11.E.2.A-2 – Chart of Minor Streets

4.	Allowed as legal access for any type of residential provided that the maximum allowable AD is not exceeded. Also, Streets within a rural subdivision shall be at least 60 feet wide when they are to be constructed without a wearing surface. [Ord. 2018-018]
5.	Use is restricted to streets providing access to up to four lots. [Ord. 2014-025] [Ord. 2019-034]
6.	Collocated Landscape Service in the AR/RSA and AR/USA shall have legal access from a Local Commercial or higher classification street, unless a lesser width is granted by a Type 2 Waiver.

1

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FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

June 10, 2020

Honorable Sharon R. Bock
Clerk and Comptroller
Palm Beach County
301 North Olive Avenue
West Palm Beach, Florida 33401

Attention: Mr. Timothy Montiglio

Dear Ms. Bock:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Palm Beach County Ordinance No. 2020-007, which was filed in this office on June 10, 2020.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb