

## **CHAPTER C VEGETATION PRESERVATION AND PROTECTION**

### **Section 1 General**

#### **A. Goals**

The goals of this Chapter are:

1. To avoid the unnecessary destruction of native vegetation;
2. To pursue eradication of invasive non-native vegetation;
3. To minimize adverse impacts to native vegetation during parcel improvement;
4. To mitigate the removal of native vegetation when the vegetation cannot be preserved in place or relocated under the proposed Site Plan; and,
5. To relocate any movable native vegetation that cannot be incorporated into the Site Plan to a PBC-approved parcel.

### **Section 2 Definitions**

See Art. 1.H, Definitions and Acronyms.

### **Section 3 Purpose**

#### **A. This Chapter shall:**

1. Establish a program to preserve and protect native vegetation; and [Ord. 2008-040]
2. Prohibit the unnecessary destruction of native vegetation and require the eradication of invasive non-native vegetation. [Ord. 2008-040]

### **Section 4 Applicability**

- A. This Chapter shall apply within the unincorporated areas of PBC, Florida.
- B. PBC shall have regulatory authority over the alteration or removal of non-native and native upland vegetation, and the establishment and maintenance of upland preserve areas.
- C. Terms specific to this Chapter are defined in Art. 1.H, Definitions and Acronyms. Terms not defined in this Chapter shall be defined pursuant to Chapter 62, F.A.C., the document entitled, "Basis of Review" (BOR), as amended, for applications within the South Florida Water Management District, dated November 1996, and Art. 1.H, Definitions and Acronyms, of this Code, as may be amended from time to time. In the event that a term is defined in Chapter 62, F.A.C., or the BOR, the BOR shall prevail. [Ord. 2008-040]
- D. Vegetation subject to the authority of this Article is defined as native plant species that are located on the site through natural recruitment, specimen native trees, or naturalized vegetation. Trees planted as a result of the requirements of Art. 7, Landscaping are not subject to this Article. [Ord. 2021-023]

### **Section 5 Authority**

This Chapter is adopted under the authority of F.S. ch. 125, as amended, and the Plan, as amended. [Ord. 2008-040]

### **Section 6 Approval Required Unless Exempt**

No person may alter or cause to be altered any vegetation unless such alteration is exempted by, or expressly approved by this Chapter.

## Section 7 Protection of Native Vegetation Approval – Application, Process, and General Standards

### A. General

The application process and procedure set herein apply to the requirements for a Protection of Native Vegetation (PNV) approval. The applications shall be submitted to ERM and in a manner and forms established by ERM, unless otherwise stated herein. ERM shall review all applications that require preservation of existing vegetation. [Ord. 2021-023]

### B. Single Family Dwellings

All newly constructed Single Family Dwellings (SFDs) in a residential subdivision shall automatically receive a Building Division Residential 1 & 2 Family Checklist with standard native and non-native vegetation removal conditions as part of the Building Permit process. For the purposes of this Chapter, a Single Family (SF) residential parcel includes: SFD; Zero Lot Line; and, Townhouse or Multifamily two-unit (duplex) residences and associated accessory structures, and shall comply with the following standards: [Ord. 2008-040] [Ord. 2012-027] [Ord. 2018-018] [Ord. 2021-023]

1. Removal of native vegetation shall be limited to the minimum necessary to accomplish the purpose of the Site Plan. The Building Division Checklist shall include requirements that ensure the intent of this provision is implemented. [Ord. 2008-040] [Ord. 2018-018]
2. Removal or eradication of prohibited invasive non-native vegetation, as identified in Appendix 5, Prohibited Invasive Non-Native Vegetation, and Appendix 6, Invasive Non-Native Vegetation, shall be completed for the entire parcel or parcels of the Development Order prior to receipt of the CO. Planting or installation of vegetation identified in Appendix 5, Prohibited Invasive Non-Native Vegetation, and Appendix 6, Invasive Non-Native Vegetation, is prohibited. The parcel owner shall maintain the parcel free of prohibited vegetation. No additional permit for such maintenance of vegetation shall be required. [Ord. 2005-002] [Ord. 2006-004] [Ord. 2021-023]

Notwithstanding anything in this Chapter to the contrary, all vegetation removal permits for SF residential parcels in existence as of the date of the adoption of this Chapter are void and of no effect, and all pending enforcement actions related thereto are dismissed. SF residential parcel owners are encouraged to maintain preserved native vegetation after site development is completed and to minimize the removal of native vegetation damaged by an extreme weather event such as a storm, hurricane, or other natural disaster. [Ord. 2008-040] [Ord. 2014-001] [Ord. 2021-023]

### C. Development of Other Uses and Improvements

#### 1. Applicability

The following uses and construction shall comply with this Subsection, unless exempted by State law for Building Permits: [Ord. 2021-023]

- a. MF residential over two units; [Ord. 2021-023]
- b. Commercial or industrial projects; [Ord. 2021-023]
- c. Construction of utilities, road right-of-way, and canals; [Ord. 2021-023]
- d. Schools; [Ord. 2021-023]
- e. Government projects; [Ord. 2021-023]
- f. Agricultural uses ten acres in size or greater; and, [Ord. 2021-023]
- g. Other construction, unless exempted by Art. 14.C.8, Exemptions. [Ord. 2021-023]

#### 2. Pre-Application Appointment

##### a. PZB Development Permit

The Applicant shall meet with ERM and Zoning Staff, pursuant to the requirements of Art. 7.E.2.A, Pre-Application Appointment (PAA). Staff will determine whether ERM or Zoning is the appropriate regulatory authority for the existing native vegetation on the subject parcel. The regulatory authority for the trees shall be established prior to the sufficiency determination on the Tree Disposition approved by ERM and the Zoning Division. [Ord. 2021-023]

##### b. Any Other Application Requiring ERM Review of Vegetation

These applications shall follow the requirements and standards of the provisions below: [Ord. 2021-023]

#### 3. Requirements and Process

- a. The Applicant shall submit an application to ERM for a PNV approval if native vegetation will be impacted by site development, concurrently with a Final Site Plan or Administrative Review application. The Applicant shall meet with ERM Staff prior to the submittal of the PNV application pursuant to the requirements of this Chapter. Projects that are not subject to the Final Site Plan or Administrative Review application processes, must submit an application for approval to remove

- native vegetation to ERM concurrently with an application for an initial Building Permit for the project. [Ord. 2008-040] [Ord. 2009-040] [Ord. 2014-001] [Ord. 2021-023]
- b. An application shall not be deemed complete until the application fee and all information necessary to fully understand the extent, nature, and potential impacts of a proposed project are received by ERM and approved by ERM prior to approval of a Zoning application or Building Permit application. Any additional information for an application deemed insufficient at DRO meeting will not be approved until the next scheduled DRO meeting. Such information may include, but is not limited to: [Ord. 2008-040] [Ord. 2021-023]
- 1) A completed application form with the notarized signature of the parcel owner or authorized agent of the parcel owner; [Ord. 2008-040]
  - 2) A written explanation of the need and intent of the project and a description of construction or alteration methodologies; [Ord. 2008-040]
  - 3) A certified Site Plan or survey, where applicable, showing all easements. Both plan view and cross-sectional view sketches may be required; [Ord. 2008-040]
  - 4) Parcel information including a location map, a recent aerial photograph with the parcel clearly delineated, and representative color photographs; [Ord. 2008-040]
  - 5) Identification of the type and location of native vegetation in the vicinity of, and likely to be affected by the project; [Ord. 2008-040]
  - 6) An Incorporated Vegetation Plan which graphically depicts the location and field tag number for each native vegetation to remain undisturbed on the parcel during construction and the natural life of the vegetation. The Incorporated Vegetation Plan may also be required to be incorporated as a feature of the Site Plan; [Ord. 2008-040] [Ord. 2021-023]
  - 7) A Vegetation Disposition Chart of all native trees/palms surveyed, indicating the type of tree/palm, the DBH or height of clear trunk if palm, and whether the parcel owner proposes to keep the tree/palm in place, relocate it, offer it for surplus, remove it, or mitigate for its removal. The Vegetation Disposition Chart shall list all native Canopy trees with the DBH equal to or greater than six inches, with the exception of Dahoon Holly (*Ilex cassine*) that shall be measured at DBH equal to or greater than four inches, and native palms with trunk heights equal to or greater than eight feet; [Ord. 2008-040] [Ord. 2021-023]
  - 8) A recent certified survey overlaid with existing easements, the proposed improvements, and the native vegetation, which has been identified and certified by an Environmental Professional; [Ord. 2021-023]
  - 9) A completed Vegetation Surplus Form which identifies surplus native vegetation which the parcel owner determines cannot otherwise be used on the parcel and is providing for the use of the Surplus Vegetation Program; and, [Ord. 2008-040]
  - 10) Methods of stormwater pollution prevention if construction of the project may result in an area of exposed soil greater than one acre subject to Federal National Pollution Discharge Elimination System (NPDES) stormwater regulations, a copy of the on-site Stormwater Pollution Prevention Plan shall be submitted as part of the application for approval. [Ord. 2008-037]
- c. Any application received that is substantially the same as a previous application that has been denied by ERM subsequent to the effective date of this Chapter shall be denied with a written response provided to the Applicant stating the reason for denial. [Ord. 2008-040]
- d. Any parcel where a violation of any Chapter administered by ERM has occurred, shall not be eligible for approval under this Chapter until such violation has been resolved. [Ord. 2008-040]
- e. Any application containing false information, or any approval issued based upon false information, may be denied or revoked and may subject the Applicant to enforcement proceedings pursuant to Art. 10, Enforcement, of this Code. [Ord. 2008-040]
- f. ERM shall have the right to make inspections of construction areas at reasonable times to determine compliance with this Chapter. [Ord. 2008-037]
- g. A pre-clearing meeting between ERM, the general contractor, and land clearing subcontractor to review the conditions within the PNV and Best Management Practices shall be required at least two business days prior to the commencement of land clearing activities unless ERM has waived the requirement in writing. [Ord. 2021-023]

#### 4. Standards of Approval

No approval shall be issued unless the application demonstrates that the project: [Ord. 2008-040]

- a. Will not result in a net loss of wetland functions and values; [Ord. 2008-040]
- b. Complies with water quality rules and standards set forth in Chapter 62-302, F.A.C.; [Ord. 2008-040]
- c. Will not adversely affect the conservation of fish or wildlife or their habitats, or adversely affect recreational fisheries or their habitats; [Ord. 2008-040]
- d. Will not adversely impact endangered or threatened species, and species of special concern, or their habitat; [Ord. 2008-040]
- e. Incorporates into the design alternatives and modifications to avoid or minimize impacts to native vegetation. Existing native vegetation shall be incorporated into the Site Plan and protected during construction. Parcel improvement features shall be configured to minimize removal of existing native vegetation and maximize the use of areas dominated by prohibited and invasive non-native vegetation. Existing native vegetation that cannot be preserved in place shall be relocated to appropriate buffer and open space areas on the parcel. Relocatable native vegetation that cannot be incorporated into the parcel may be considered surplus. There is no requirement to provide vegetation for surplus. Non-relocatable native vegetation with trunk diameters equal to or greater than six inches that cannot be maintained on the parcel shall be mitigated in accordance with Table 14.C.7.C, Native Vegetation Mitigation or through planting equivalent native vegetation, accepted by ERM prior to the receipt of the Certificate of Occupancy for Single Family projects or 75 percent completion of construction of Multifamily projects, based on either total square footage or number of units to be constructed. Native palms with gray wood equal to or greater than eight feet that cannot be relocated must be replaced with native palms of like size. A planting plan that clearly delineates proposed mitigation plantings from any required landscape plantings must be approved by ERM prior to the issuance of the first Building Permit for the project. [Ord. 2008-037] [Ord. 2008-040] [Ord. 2009-040] [Ord. 2018-018] [Ord. 2021-023]
- f. ERM shall also consider: [Ord. 2005-002] [Ord. 2008-003]
  - 1) Alternative designs to limit the removal of native vegetation to the minimum necessary while still allowing the Applicant to accomplish the purpose of the Site Plan; [Ord. 2008-040]
  - 2) Preserving listed species in place or relocating to buffers, open space, or unimproved portions of the parcel; [Ord. 2008-040]
  - 3) The likelihood of success for relocated native vegetation; [Ord. 2008-040]
  - 4) Mitigation or compensation for the loss of native vegetation; [Ord. 2008-040]
  - 5) Creation of a tree preservation area; [Ord. 2008-040]
  - 6) In lieu of replacement planting, when on-site mitigation has been exhausted or is unavailable, a donation may be made to PBC for the Natural Areas Fund unless an alternative plan that meets the purpose and intent of this Chapter has been approved by the Director of ERM. The donation amount shall be based on the cost schedule provided in ERM PPM #EV-O-308; [Ord. 2006-036] [Ord. 2008-037] [Ord. 2012-027] [Ord. 2021-023]
  - 7) Sabal palms may be allowed as replacement plantings for Canopy trees if approved by ERM and planted at three to one (palms to required replacement trees) based on Table 14.C.7.C, Native Vegetation Mitigation, on ten-foot centers, plus or minus one foot, and grouped as shown on a planting plan table approved by ERM. [Ord. 2006-036] [Ord. 2008-040] [Ord. 2021-023]
- g. Complies with any applicable Federal, State, or Local designated preserve, conservation, or mitigation area; [Ord. 2008-040]
- h. Removes or eradicates prohibited invasive non-native vegetation, as identified in Appendix 5, Prohibited Invasive Non-Native Vegetation, and Appendix 6, Invasive Non-Native Vegetation, shall be completed for the entire parcel or parcels of the Development Order prior to receipt of the CO. Planting or installation of vegetation identified in Appendix 5, Prohibited Invasive Non-Native Vegetation, and Appendix 6, Invasive Non-Native Vegetation, is prohibited. The parcel owner shall maintain the parcel free of prohibited vegetation. No additional permit for such maintenance of vegetation shall be required. [Ord. 2005-002] [Ord. 2006-004] [Ord. 2008-040]

**i. Specimen Tree Removal**

Removal of any specimen tree (defined in Art. 1.H.2, Definitions) from non-exempt parcels identified in Appendix 7, Specimen Tree List, is prohibited, unless the following criteria are met: [Ord. 2021-023]

- 1) The Applicant shall depict on the Site or Subdivision Plan any specimen tree in its original location to the greatest extent possible; [Ord. 2021-023]
  - a) If there is no reasonable alternative that allows incorporation of the tree into the parcel design, a specimen tree shall be relocated in a manner to ensure survivability. The Applicant shall provide appropriate documentation (e.g., an Arborist Report), prepared by an Arborist, certified by the International Society of Arboriculture, to ERM for review. [Ord. 2021-023]
  - b) If a specimen tree cannot be relocated, the parcel owner shall install mitigation plantings consisting of native vegetation pursuant to Table 14.C.7.C, Native Vegetation Mitigation. This requirement is in addition to the requirements outlined in Art. 7, Landscaping, and any other Conditions of Approval. [Ord. 2021-023]
- 2) Dahoon Holly (*Ilex cassine*) trees shall be replaced like size for like size for mitigation. [Ord. 2021-023]

**5. Establishing Native Upland Preserves**

All approvals for parcels equal to or greater than four acres shall be evaluated by ERM for the establishment of a native upland preserve. Parcels that have significant or unique areas of native upland vegetation, regardless of parcel size shall be required to designate a native upland preserve equivalent to at least 25 percent of the total native upland vegetation on site or otherwise comply with this Chapter. ERM encourages upland preserve areas greater than one-half acre in size. New public park facilities constructed on parcels 20 acres in size or less shall be exempt from the preserve requirements of this Chapter.

The Applicant shall provide an environmental assessment prepared by an environmental professional for parcels with significant or unique areas of native vegetation at time of initial application to determine the native upland preserve location, size, and configuration for evaluation by ERM. The Applicant is encouraged to meet with ERM to determine the extent of the assessment. The assessment shall include the following with photo documentation, at a minimum: Florida Land Use and Cover Classification System (FLUCCS) map, a list of native species, quality of the native ecosystem, overall identification and quality of the native species, presence of listed species, ecosystem type, uniqueness of wildlife habitat, quality and quantity of native vegetation (canopy, understory, and ground cover), compactness of the preserve, and the proximity to other natural preserve areas and corridors. [Ord. 2019-034]

- a. The preserve boundaries shall be designated in a certified survey submitted to ERM for approval. No easements may be located within the boundaries of the preserve. Prior to and during parcel alteration, the preserve boundaries shall be clearly marked and appropriately barricaded. Permanent preserve boundary markers shall be installed and proper documentation submitted to ERM prior to issuance of Technical Compliance or monitoring release, if applicable, and shall be maintained by the parcel owner in compliance with the approved Preserve Management Plan. The County may release the preserve if the Applicant offers to relocate the preserve to an area that meets the criteria in Art. 14.C.7.B.6, Surplus Native Vegetation. [Ord. 2008-040] [Ord. 2019-034]
- b. The parcel owner shall develop a Preserve Management Plan to provide long-term protection and maintenance of the values and functions of the preserve. Activities that cause degradation of the preserve are prohibited. The Preserve Management Plan shall be accepted by ERM prior to a DRO certification. ERM may provide Preserve Management Plan Guidelines. The parcel owner shall maintain the preserve in accordance with the Preserve Management Plan. The Preserve Management Plan will include the requirement to maintain annual reports detailing species presences, control practices for prohibited and invasive non-native species, activity corrections to maintain compliance with the Plan, and photographs demonstrating the state of the preserve. Said annual reports shall be delivered to ERM within 90 days upon written request, unless extended by ERM in writing. Modifications to the Preserve Management Plan are prohibited without prior written approval by ERM. [Ord. 2008-040] [Ord. 2019-034]
- c. Preserve areas shall be identified graphically and legally described in the applicable deed restriction plat, restrictive covenant, conservation easement, or by a separate instrument to be recorded pursuant to F.S. § 704.06, as amended. Said preserve shall be specifically and separately reserved to the owner, or if applicable, to the Property Owners' Association as its perpetual maintenance responsibility, without recourse to PBC or other governmental entity or agency. Prior

- to Technical Compliance, the plat or instrument shall be submitted to and approved by ERM, recorded in the Public Records of PBC, and proof of recordation shall be provided to ERM. Parcel owners are encouraged to dedicate voluntary preserves to PBC for preservation in perpetuity. PBC may enter into agreements with parcel owners to enhance private preserves. [Ord. 2008-040]
- d. All vegetation listed in Appendix 5, Prohibited Invasive Non-Native Vegetation, and Appendix 6, Invasive Non-Native Vegetation, shall be removed from the parcel and proper documentation submitted to ERM prior to issuance of the Certificate of Occupancy for single-unit projects or 75 percent completion of construction of multi-unit projects, based on either total square footage or number of buildings to be constructed, unless a Phasing Plan has been approved in writing by ERM. In addition to the removal requirement above, the vegetation identified in Appendix 8, Invasive Non-Native Vegetation within Preserves, shall be removed from the preserve area. The parcel owner shall thereafter maintain the parcel free of this vegetation. [Ord. 2008-040] [Ord. 2009-040]
  - e. A parcel owner may mitigate for the loss of vegetation during parcel improvement by preserving additional native upland habitat or vegetation or by developing and implementing a restoration and enhancement plan for a native upland preserve. Alternative mitigation proposals that meet the purpose and intent of this Chapter may also be submitted. [Ord. 2008-040]
  - f. Preserves may be dedicated off site in lieu of on-site dedication with ERM's approval. The size of the off-site preserve shall be based on the quality of the habitat or vegetation on both the parcel being improved and the parcel of the proposed preserve. The final appraised values of the parcel being improved and the parcel for the proposed preserve may also be considered. The location of the off-site preserve shall be determined prior to DRO. Prior to issuance of approval, the instrument used to dedicate an off-site preserve shall be submitted to and approved by ERM. [Ord. 2008-040]
  - g. A preserve may be purchased in accordance with the following: [Ord. 2008-040]
    - 1) Parcels with existing and approved preserve areas or that support endangered, threatened, rare, and species of special concern will not be considered for a cash payment in lieu of dedicating a preserve set aside. A parcel owner may submit a cash payment in lieu of setting aside a native upland preserve provided the following criteria are met: [Ord. 2008-040] [Ord. 2019-034]
      - a) A written request shall be submitted to ERM prior to DRO, certification for public hearing, Site Plan certification, or issuance of a building construction permit, whichever occurs first; [Ord. 2008-040]
      - b) The cash payment shall be equivalent to the per acre value of the parcel, at the time of permit application, multiplied by the number of acres required to be preserved. PBC may request a second appraisal on which to base this cash payment; and, [Ord. 2008-040] [Ord. 2010-022] [Ord. 2019-034]
      - c) The cash payment shall be made payable to the PBC Natural Areas Fund and shall be submitted prior to issuance of the permit or Site Plan certification, whichever occurs first. [Ord. 2008-040] [Ord. 2019-034]
    - 2) For Bona Fide Agriculture, this cash payment option may allow commencement of parcel improvement prior to submittal of the cash payment provided: [Ord. 2008-040]
      - a) The parcel owner records a restricted covenant on a PBC-approved form limiting the use of the parcel to Bona Fide Agriculture, and requiring the parcel owner to make the cash payment to PBC at the time the parcel is converted to a non-agricultural land use or is sold; [Ord. 2008-040]
      - b) The cash payment amount shall be calculated based on the appraised conversion value or actual cost, if sold, whichever is greater, of the parcel after conversion to a non-agricultural use; [Ord. 2008-040]
      - c) Upon any conversion of a parcel to non-agricultural use where a deed restriction option is used, the parcel owner shall comply with PBC requirements for an enhanced landscape buffer; [Ord. 2008-040]
      - d) The parcel owner considers increasing the upland set aside to offset any mitigation on the parcel for trees as determined by ERM; and, [Ord. 2008-040]
      - e) The parcel owner may consider replanting the preserve, with appropriate vegetation, as determined by ERM in lieu of cash payment. The constructed preserve shall comply with preserve standards as required under Art. 14.C.7.B.3., Establishing Native Upland Preserves. Monies collected in lieu of establishing a preserve shall be paid to PBC for the Natural Areas Fund for the management of native ecosystems. [Ord. 2008-040]

**h. Tree Preservation Areas**

Parcels less than four acres or parcels greater than four acres with significant upland vegetation that may not otherwise qualify for a 25 percent set-aside, may be required to provide tree preservation area(s). Factors that will determine if a parcel has significant areas of native vegetation include, but are not limited to the quality of the ecosystem, overall quality of biological diversity, the presence of listed or uncommon species, wildlife habitat value, value grouping of assemblages of native vegetation, compactness of the area, and degree of limited impact by prohibited and invasive non-native vegetation. [Ord. 2008-040]

- i. Preserves shall be maintained in compliance with standards set forth in this Chapter and the Preserve Management Plan. Non-native vegetation shall not be introduced into the preserve. Invasive vegetation that can alter the existing native vegetation communities by displacing native vegetation shall be removed if non-native or reduced, if native, to a level of non-interference with the growth of native vegetation. [Ord. 2008-040]

**6. Preserves under Dedication**

- a. An Applicant may propose to relocate a preserve under dedication to an alternate on-site or off-site parcel provided the proposed parcel relocation does not create multiple preserves that are smaller in size than the original preserve unless ERM determines the proposed smaller preserve(s) meets or exceeds the quality and meets or exceeds the quantity of the habitat or vegetation of the existing preserve parcel at the time the dedication was approved by ERM and relocation does not create fragmentation with any other natural system. The Applicant shall demonstrate compliance with the approved Preserve Management Plan for the preserve under dedication and provide an environmental assessment per Art. 14.C.7.B.3, Establishing Native Upland Preserves for the proposed parcel for evaluation by ERM. If the original preserve is contiguous to another natural system then the request will not be considered unless a more favorable habitat is offered. [Ord. 2019-034]
- b. A preserve under dedication that has endangered, threatened, rare, and species of special concern, other than gopher tortoises or any other species being relocated under a Florida Fish and Wildlife Conservation Commission permit, shall not be considered for relocation. [Ord. 2019-034]
- c. A preserve under dedication resulting from a violation or enforcement action shall not be considered for relocation unless Art. 14.C.7.B.4.a and Art. 14.C.7.B.4.b are satisfied. [Ord. 2019-034]

**7. Transferring of a Preserve under Dedication**

A municipality may request that a preserve under dedication be transferred to their jurisdiction provided: annexation has occurred, the County-approved Site Plan development has not occurred, and the preserve under dedication is not a result of an enforcement action or violation. [Ord. 2019-034]

**8. Surplus Native Vegetation**

Native upland vegetation that cannot be preserved or relocated on the parcel shall be considered surplus. An Applicant for an approval shall complete and attach to the application a Vegetation Surplus Form provided by ERM, and a list of the available vegetation including the species names and approximate quantity and sizes of each species to be surplus. The Applicant shall prevent inadvertent destruction by physically marking available vegetation on the parcel to afford easy identification. ERM shall maintain a list of persons interested in relocating surplus native vegetation, and shall assist in finding suitable locations for this surplus vegetation. Should a parcel owner elect to participate in the Vegetation Surplus program, the vegetation shall remain available for removal, sale, or donation for at least 20 working days unless a shorter timeframe is approved in writing by ERM, and the parcel owner shall cooperate with relocating surplus vegetation off site. Should a parcel owner elect not to participate in the benefits of the Vegetation Surplus program, this fact shall be stated on the application. [Ord. 2008-040]

**9. Performance Guarantee Required for Tree Mitigation or Restoration**

**a. Process**

A performance guarantee in an amount equal to 125 percent of the replacement value of the trees listed on the approved Vegetation Disposition Chart pursuant to ERM PPM #EV-O-308. [Ord. 2021-023]

**b. Purpose and Intent**

The purpose of the performance guarantee is to ensure that the obligations under the PNV are satisfied. [Ord. 2021-023]

**c. Execution**

The performance guarantee shall be executed by a person with a legal interest in the parcel. [Ord. 2021-023]

**d. Form of Performance Guarantee**

The performance guarantee shall be: [Ord. 2021-023]

- 1) A cash deposit or certificate of deposit assigned to PBC; or [Ord. 2021-023]
- 2) A performance bond issued by a State of Florida-registered guarantee company which shall be listed on the U.S. Department of Treasury Fiscal Services, Bureau of Government Financial Operations in accordance with the performance bond PPM; or [Ord. 2021-023]
- 3) A clean, irrevocable letter of credit in accordance with the letter of credit PPM. [Ord. 2021-023]

**e. Term of the Performance Guarantee Duration**

- 1) The performance guarantee shall be kept in full force until all obligations thereunder are satisfied. [Ord. 2021-023]
- 2) The performance guarantee shall remain in effect until: [Ord. 2021-023]
  - a) such time that all conditions listed in the PNV are satisfied; or [Ord. 2021-023]
  - b) a replacement performance guarantee for transfer of ownership of the project in conjunction with the transfer of the PNV approval issued for the project to another owner is reviewed and approved on forms provided by ERM. [Ord. 2021-023]

**f. Use of Performance Guarantee**

In the event the PNV expires in advance of the completion of the conditions specified in the PNV approval, and no written request is approved by ERM for reinstatement within 30-calendar days of expiration, the Property Owner of the parcel shall be found in violation of this Chapter, and a claim against the guarantee shall be initiated consistent with the requirements outlined in ERM PPM #EV-O-308. [Ord. 2021-023]

**g. Exemptions**

- 1) PBC projects are exempt from the performance guarantee for tree mitigation or restoration. [Ord. 2021-023]
- 2) Projects whose total performance guarantee value would be less than 1,000 dollars, are exempt from the performance guarantee for tree mitigation and restoration. [Ord. 2021-023]

**10. Mitigation or Restoration**

- a. For replacement vegetation which dies other than through a natural occurrence, the replacement value shall be that in Table 14.C.7.C, Native Vegetation Mitigation. Should replacement values not be found in the Table, the vegetation shall be replaced like size for like size. When native trees are removed or damaged contrary to written approval by ERM or when trees that were to be preserved in place or relocated are damaged or destroyed during activities conducted with ERM approval, they shall be mitigated at double the rate shown in Table 14.C.7.C, Native Vegetation Mitigation. The Vegetation Survey, Vegetation Disposition Chart, and Final Landscape or Final ALP shall clearly identify which vegetation is being preserved to satisfy the requirements of this Article. ERM may approve the planting of native vegetation equivalents other than the replacement values specified in Table 14.C.7.C, Native Vegetation Mitigation. [Ord. 2008-040] [Ord. 2009-040] [Ord. 2012-027] [Ord. 2021-023]

**Table 14.C.7.C – Native Vegetation Mitigation**

Tree or Pine Diameter at 4.5' Above Grade (1)(2)(3)	=	Quantity for Mitigation (4)
< 6"	=	0
6-8"	=	2
9-11"	=	3
12-14"	=	4
15-17"	=	5
18-20"	=	6
21-23"	=	7
24-26"	=	8
≥ 27"	=	9
[Ord. 2021-023]		
<b>Notes:</b>		
1.	Fractional measurements shall be rounded in accordance with Art. 1.C.1.A.2, Interpretation and Application. [Ord. 2021-023]	
2.	Dahoon Holly ( <i>Ilex cassine</i> ) trees shall be replaced like size for like size for mitigation as pursuant to Art. 14.C.7.B.4.i, Specimen Tree Removal. [Ord. 2021-023]	
3.	Palms mitigation shall be one for one and equivalent trunk height and subject to Art. 14.C.7.C.3.b.7) and Art. 14.C.7.C.4.e. [Ord. 2021-023]	
4.	Replacement of vegetation for sites found in violation with irreparable or irreversible harm shall be pursuant to Art. 14.C.12, Violations. [Ord. 2021-023]	



- b. Alternative mitigation that meets the purpose and intent of this Chapter may be proposed for public projects on a publicly-owned parcel. Alternative mitigation proposals shall be reviewed and a determination made by the County Administrator in consultation with the Director of ERM. [Ord. 2008-040]
- c. All vegetation planted to meet mitigation requirements shall be installed using best industry standards and provided with mulch, irrigation, and required maintenance to ensure survival. [Ord. 2009-040] [Ord. 2019-034]
- d. All mitigation shall occur and proper documentation, in the form of a final planting plan, shall be submitted to ERM prior to the Certificate of Occupancy for single-unit projects or 75 percent completion of construction of multi-unit projects, based on either total square footage or number of units to be constructed. [Ord. 2008-040] [Ord. 2009-040]
- e. Any mitigation plantings found to have died within 360 days of plantings shall be replaced. [Ord. 2009-040]
- f. A letter of certification of planting completion, that supports compliance with Art. 14.C.7.B.7.c and Art. 14.C.7.B.2.h, submitted to ERM by the Registered Landscape Architect for the project prior to the issuance of the Certificate of Occupancy shall substitute for any required final inspection. [Ord. 2009-040]
- g. Any clearing activity after 1986 which cannot provide evidence of approval will be required to restore nine trees per 1,500 square feet of cleared native vegetation. The restoration may be accomplished through on-site planting of native trees or equivalent native vegetation approved by ERM, a contribution to the Palm Beach County Natural Areas Fund that is equivalent to nine trees per 1,500 square feet of removed native vegetation, or the dedication of equivalent upland quality land area. [Ord. 2008-040] [Ord. 2009-040] [Ord. 2012-027]
- h. Projects within the one-year monitoring period may remove vegetation damaged by an extreme weather event such as a storm, hurricane, or other natural disaster under an approval from ERM. Any mitigation vegetation removed must be replanted within 365 days of the removal date. [Ord. 2014-001]

#### **D. Standards of Issuance**

No approval shall be issued unless the application demonstrates that the project: [Ord. 2014-001]

1. Will not result in a net loss of wetland functions and values;
2. Complies with water quality rules and standards set forth in Chapter 62-302, F.A.C.;
3. Will not adversely affect the conservation of fish or wildlife or their habitats, or adversely affect recreational fisheries or their habitats;
4. Will not adversely impact endangered or threatened species, and species of special concern, or their habitat;
5. Incorporates into the design alternatives and modifications to avoid or minimize impacts to native vegetation; and,
6. Complies with any applicable Federal, State, or Local designated preserve, conservation, or mitigation area.

### **Section 8 Exemptions**

The following activities do not require an approval under this Chapter: [Ord. 2008-040]

#### **A. Botanical Gardens, Botanical Research Centers, Licensed Commercial Nurseries, or Agricultural Operations**

After an initial clearing performed in accordance with this Chapter, the following are exempt if part of the ongoing activities of an existing operation: vegetation alteration associated with subsequent harvesting activities and harvesting or alteration of vegetation previously planted and cultivated for production as part of a botanical garden, botanical research center, nursery, or agricultural operation. This exemption does not allow for the removal of vegetation within preserve areas or vegetated buffers. [Ord. 2012-027] [Ord. 2014-001]

#### **B. Fencing**

The minimal removal of trees or understory necessary to install a fence, provided that no tree three inches or greater DBH is removed, the path cleared for the fence does not exceed five feet in width, and native vegetation is removed solely by hand.

#### **C. Forest Management Activities**

Selective tree removal for forest management activities as defined in the current Forest Management Plan as approved by the State of Florida Division of Forestry.

**D. Improved Parcels**

Removal of prohibited and invasive non-native vegetation. The removal of dead and dying vegetation and vegetation not subject to this Chapter is also exempt; provided, however, the removal complies with Art. 7, Landscaping, as amended. [Ord. 2019-034]

**E. Landscape Plant Removal**

Removal or alteration, from an improved parcel, of native and non-native vegetation installed as landscape, provided the activity complies with the requirements of Art. 7, Landscaping, as amended, and no removal or alteration occurs from native upland vegetation buffers, preserves, or jurisdictional wetlands. [Ord. 2021-023]

**F. Lot Clearing Provisions**

Removal of prohibited and invasive non-native vegetation required pursuant to the Lot Clearing provision in Art. 7, Landscaping, as amended, or at the direction of a public law enforcement agency pursuant to necessary law enforcement activity.

**G. Mitigation or Enhancement Projects**

Activities conducted pursuant to a permit from SFWMD, Florida Department of Environmental Protection, or ERM under F.S. ch. 403 and F.S. ch. 373, as amended, and Chapter 62-312, F.A.C. as amended, including activities approved under an adopted Surface Water Improvement and Management Plan.

**H. Natural Emergencies**

The provisions of this Chapter may be suspended or waived by the Director of ERM during a period of officially declared emergency, such as a hurricane, windstorm, tropical storm, flood, or similar disaster.

**I. Parks and Recreation**

Alterations of vegetation pursuant to an adopted management plan for government maintained parks, recreation areas, wildlife management areas, conservation areas, and preserves, excluding new construction or parcel improvement.

**J. Preserve Management Activities**

Preserve management activities provided that:

1. The preserve area is designated by deed restriction, plat, restrictive covenant, or conservation easement and is dedicated to a public entity or approved private conservation group for preservation in perpetuity;
2. The activity furthers the natural values and functions of the ecological communities present, such as clearing firebreaks for prescribed burns or construction of fences; and,
3. The preserve area has a Preserve Management Plan approved by ERM.

**K. Pruning**

Pruning of native vegetation in non-preserve areas in accordance with the American National Standards Institute (ANSI), A300, pursuant to Art. 7.F, Installation and Maintenance as revised, to allow for healthy growth, to promote safety, and to remove dead or dying vegetation, provided there is no cutting back of limbs to a point between branch collars or buds larger than one inch in diameter within the tree's crown.

**L. Utilities, Water Control, Water Management Districts, and Road R-O-W**

Alteration of vegetation is permitted within drainage easements associated with repairs to or maintenance of existing canal structures at the direction of water control districts, or water management districts within drainage easements, where the vegetation is interfering with drainage or services provided by the water control districts or water management districts. Alteration of vegetation is permitted within a utility easement, where the vegetation is interfering with services provided by a utility. Alteration of vegetation is permitted within a road R-O-W for normal maintenance activities. Alteration associated with new construction is not an exempt activity.

**M. Survey or Other Test Required**

The necessary removal of vegetation by, or at the direction of, a State of Florida-licensed Professional Surveyor and Mapper, Professional Geologist, or Professional Engineer to conduct a survey or other required test, provided that no tree three inches or greater DBH is removed, the path cleared does not exceed five feet in width, and native vegetation is removed solely by hand. If necessary, soil sampling with a vehicle equipped with a boring apparatus may clear a path not to exceed the minimum width required to gain ingress and egress into the test sampling area. [Ord. 2009-040]

**N. Minor Vegetation Removal**

Removal of native vegetation with a replacement value of four trees or less, as defined in Table 7.E.3.C, Vegetation Credit and Replacement. [Ord. 2012-027]

**O. Minor Vegetation Relocation**

Relocation of up to ten native palm trees, provided that the trees are relocated using best industry standards and provided with mulch, irrigation, and required maintenance to ensure survival. The planting location must be depicted on a Site Plan, survey, or other document format acceptable to ERM. [Ord. 2012-027]

**P. Initial Clearing for an Agricultural Operation Less Than Ten Acres**

Initial clearing for an agricultural operation less than ten acres is exempt, provided that the level of clearing does not exceed the area for crop production. [Ord. 2014-001]

- Q. Removal of native vegetation on a Single Family residential parcel or a single two-unit duplex residential parcel without a recorded conservation easement. [Ord. 2018-018]**

**Section 9 Removal of Prohibited Invasive Non-Native Vegetation**

Improved parcels approved or constructed on or after April 28, 1986, shall be maintained free of prohibited vegetation listed in Appendix 5, Prohibited Invasive Non-Native Vegetation. [Ord. 2008-040]

**Section 10 Fees**

Fees shall be required as established by Resolution of the BCC. Fees shall be non-refundable and non-transferable. An administrative fee may be required where projects require specific detailed Site Plan assistance by PBC or where Site Plans change after initial review. Application fees paid by check shall be payable to the BCC. [Ord. 2008-040]

**Section 11 Appeals**

**A. Hearing Officer**

An Applicant for any approval may appeal a final determination made by the Director of ERM to a Hearing Officer as established in Art. 2.G.3.G, Hearing Officers, of this Code pursuant to this Chapter. The Applicant shall comply with the following appeal procedures. [Ord. 2008-040]

**1. Submittal**

A written appeal must be made within 20 days of the Applicant's receipt of the decision by the Director of ERM. The appeal must state with specificity the reasons for the appeal and shall contain such data and documentation upon which the Applicant seeks to rely. Failure to file within such timeframe shall constitute a waiver of a person's right of review by the Hearing Officer.

**2. Hearing**

The appeal shall be reviewed at a hearing by the Hearing Officer within 60 working days of ERM's receipt of a request and a 50-dollar filing fee. The Applicant will receive notice of the hearing no less than 15 working days in advance of the hearing. At the hearing, the Hearing Officer shall provide the Applicant and the Director of ERM, or their respective legal representatives, an opportunity to present testimony and evidence, provided such information was part of the review before the Director of ERM. All testimony shall be under oath and shall be recorded. The formal rules of evidence shall not apply but fundamental due process shall be observed and shall govern the proceedings. The Hearing Officer in his or her discretion, may exclude irrelevant, immaterial, or unduly repetitious evidence, but all conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of the State of Florida. Any part of the evidence may be received in written form. The Hearing Officer shall reverse the decision of the Director of ERM only if there is substantial competent evidence in the record that the Director of ERM erred in applying the standards of this Chapter. The Hearing Officer shall enter a decision by written order not less than ten days following conclusion of the hearing. The order shall include findings of fact and conclusions of law and shall be deemed final administrative action. An Applicant or ERM may appeal a final decision of the appeals board within 30 days of the rendition of the decision. Such appeal shall not be a hearing *de novo*, but shall be a Petition for Writ of *Certiorari* in the Circuit Court of the 15th Judicial Circuit in and for PBC. The Court shall be limited to appellate review of the record created before the Hearing Officer and may assess a reasonable fee for the preparation of the record to be paid by the Petitioner in accordance with F.S. § 119.07, as amended from time to time.

**3. Judicial Relief**

An Applicant or ERM may appeal a final written order to the Circuit Court of the 15th Judicial Circuit in and for PBC. Such appeal shall not be a hearing *de novo*, but shall be a Petition for Writ of *Certiorari* and the Court shall be limited to appellate review of the record created before the Hearing Officer. PBC may assess a reasonable fee for the preparation of the record to be paid by the Petitioner in accordance with F.S. § 119.07, as amended from time to time.

## Section 12 Violations

### A. Violations

A violation shall be:

1. The alteration or removal of one specimen tree, or the alteration or removal of up to 1,500 square feet of native vegetation without an approval from ERM, unless expressly exempt under this Chapter. Alteration or removal of each additional specimen tree and alteration of each additional 1,500 square feet of native vegetation or portion thereof in violation of this Chapter shall constitute a separate and additional violation. [Ord. 2008-040] [Ord. 2009-040] [Ord. 2021-023]
2. Failure to comply with a condition of an approval issued by ERM pursuant to this Chapter or a requirement of a Preserve Management Plan approved by ERM. Each condition or requirement violated and each occurrence of a violation shall constitute as a separate violation. [Ord. 2008-040]
3. Failure to comply with the requirements of this Chapter or any approval granted or activity authorized hereunder.
4. Failure to comply with an ERM Wetlands Alteration Permit issued prior to the effective date of March 1, 1998.
5. Planting prohibited invasive non-native vegetation.
6. Planting non-native vegetation within a preserve.
7. Conversion of a parcel cleared for Bona Fide Agriculture to another use prior to use as agriculture.
8. Introduction of structures, grade changes, debris, or utilities into a preserve without approval by ERM. [Ord. 2006-036]

### B. Enforcement

To enforce compliance with this Chapter, the County may issue a cease and desist order or require that a Building Permit or CO be withheld. A violation of this Chapter shall be punishable by one or more of the following: [Ord. 2008-040]

1. Violations involving activities conducted without a valid PNV approval that may otherwise have been permitted will require the submittal of a PNV application, the appropriate application fee, and be subject to the remedies outlined in Art. 10, Enforcement of the Code or other remedies pursuant to this Article; [Ord. 2021-023]
2. Activities conducted with a valid PNV approval that are inconsistent with the stated approval conditions and result in a need to modify the existing approval will require an application to modify the PNV, the appropriate application fee, and be subject to the remedies outlined in Art. 10, Enforcement of the Code or other remedies pursuant to this Article; [Ord. 2021-023]
3. Remedies outlined in Art. 10, Enforcement, of the Code; [Ord. 2008-003] [Ord. 2008-040]
4. Any applicable remedies under F.S. ch. 125 and F.S. ch. 162, as amended; [Ord. 2008-003]
5. PBC may take any other appropriate legal action, including but not limited to, administrative action, and requests for temporary and permanent injunctions to enforce the provisions of this Chapter; and, [Ord. 2008-003] [Ord. 2008-040]
6. ERM Wetlands Alteration Permits issued prior to, and with obligations beyond the effective date of this Chapter, shall remain in full force and effect. Accordingly, the enforcement provisions herein shall apply to any violation of an ERM Wetlands Alteration Permit issued prior to, and with obligations beyond, the effective date of this Chapter, except that violations of Single Family dock permits issued pursuant to the agreement between PBC and the USACOE (adopted as Resolution No. R-89-120 and dated January 24, 1989), shall be referred to the USACOE, and ERM Mangrove Trimming Permit violations shall be referred to the DEP. In the event the DEP directs ERM to enforce a violation of a permit issued under the mangrove delegation agreement between PBC and the DEP, dated January 21, 1997, the enforcement provisions herein, in addition to any State-mandated enforcement provisions, shall apply.

### C. Pollution Recovery Trust Fund

All monies collected as civil penalties for violations of this Chapter shall be paid to PBC for the Pollution Recovery Trust Fund.

### D. Restoration

1. Properties cleared after 1986 without an approval will be required to restore nine trees per violation. The restoration may be accomplished through on-site planting of native trees or equivalent native vegetation approved by ERM, a contribution to the Palm Beach County Natural Areas Fund that is equivalent to nine trees per violation, or the dedication of equivalent upland quality land cleared. [Ord. 2008-040] [Ord. 2012-027] [Ord. 2019-034]
2. If a preserve under dedication has degraded due to neglect or lack of compliance with the approved Preserve Management Plan, the Property Owner shall provide a restoration plan to ERM per Art. 14.C.12.D.a. Restoration of the preserve may occur in phases as approved by ERM. [Ord. 2019-034]

## Section 13 Natural Areas and Preserve Areas

### A. Natural Areas

Planned developments shall be designed to mitigate the negative impacts of development intensity and density upon natural areas as defined in PBC Ordinance No. 94-13, and parcels designated as preserve areas according to this Chapter. Proposed development shall not negatively impact the native ecosystem of any adjacent natural areas and shall comply with the criteria established in this Article, for natural areas and other applicable environmental Ordinances. The Applicant shall work in cooperation with the PZB and ERM to establish mutually acceptable alternatives to protect the natural area, including but not limited to:

1. The prohibition of certain land uses; and
2. A reduction in the building intensity near natural areas and preserve areas by the creation of a minimum 50-foot buffer zone.

### B. Special Preservation Protection Standards

#### 1. Lake Worth Lagoon and Loxahatchee River Buffers

A 50-foot native vegetation buffer shall be preserved along the Lake Worth Lagoon, and that portion of the Loxahatchee River which lies outside the Jonathan Dickinson State Park Greenline Overlay, depicted on Map LU 3.1, Special Planning Areas, of the Plan. The purpose of the native vegetation buffer is to preserve native vegetation along the two waterways and to decrease the impact of stormwater activities on the two waterways. Restrictions may be imposed on development by ERM to conserve native vegetation within the buffer and reduce hydrological impacts to the two waterways. [Ord. 2005-002]

- a. If native vegetation exists within the 50-foot conservation buffer, then restrictions may be imposed by ERM within the buffer to address the following issues: [Ord. 2005-002]
  - 1) Visual encroachment;
  - 2) Edge effects;
  - 3) Exotic pest plant invasions;
  - 4) Interference with prescribed burns in natural areas; [Ord. 2005-002]
- b. If native vegetation does not exist within the 50-foot buffer, then restrictions may be imposed by ERM within the buffer to address the following issues: [Ord. 2005-002]
  - 1) Hydrological impacts; [Ord. 2005-002]
  - 2) Any other specific site development regulations required by this Code.
- c. In addition to any of the restrictions listed above, ERM may also require: [Ord. 2005-002]
  - 1) development to be clustered away from natural or preserve areas; or [Ord. 2005-002]
  - 2) buffer or preserve areas to be added adjacent to existing natural and preserve areas; or [Ord. 2005-002]
  - 3) a combination of these alternatives. [Ord. 2005-002]

ERM shall strive to minimize parcel alterations near natural and preserve areas. [Ord. 2005-002]

- d. The addition of a buffer or preserve areas adjacent to existing natural areas and preserve areas. Additionally, all effort shall be made to minimize parcel alterations near natural areas and preserve areas.

## **CHAPTER D PROHIBITED INVASIVE NON-NATIVE VEGETATION REMOVAL ORDINANCE**

### **Section 1 Purpose and Intent**

- A. It is the intent of this Chapter to require removal and control of prohibited invasive non-native vegetation.
- B. It is the intent of this Chapter to protect natural areas from unwanted seed sources from outside the natural areas.

### **Section 2 Definitions**

See Art. 1.H, Definitions and Acronyms.

### **Section 3 Applicability**

- A. All provisions of this Chapter shall be effective within the unincorporated and incorporated areas of PBC, except to the extent of conflict with a municipal ordinance, in which case the municipal ordinance will prevail over this Chapter in accordance with Sec. 1-3, the PBC Charter.

### **Section 4 Authority**

This Chapter is adopted under the authority of F.S. ch. 125, and the Plan, as amended. ERM shall administer the requirements of this Chapter. [Ord. 2008-040]

### **Section 5 Protection of Natural Areas**

- A. The County will establish by geographical information system reference, a 500-foot buffer area around all natural areas listed in Appendix 9, Natural Areas. Maps of the natural areas including buffers shall be on file and maintained by ERM and made available to the public. [Ord. 2008-040]
- B. Natural areas acquired by the BCC using the Conservation Lands Bond Fund shall be added to Appendix 9, Natural Areas pursuant to a duly noticed public hearing. [Ord. 2008-040]
- C. Any individual, organization, or governmental entity owning or controlling a natural area may request an addition to Appendix 9, Natural Areas, by petitioning ERM. The petition shall include a description and map of the proposed addition, written justification for listing, a copy of the management plan, if available, and proof of notice to parcel owners within the proposed buffer of the natural area. ERM-recommended additions to Appendix 9, Natural Areas, or changes to the size of the buffer area may be approved by the BCC following a duly noticed public hearing.
  - 1. For publicly-owned natural areas, there is no minimum size for listing.
  - 2. For privately-owned natural areas, there must be a minimum of ten acres of natural area unless determined by ERM to be a highly significant natural area including scrub, wetlands, or mangrove communities and maintained under a management plan approved or accepted by ERM.

### **Section 6 Removal of Prohibited Invasive Non-Native Vegetation**

- A. By January 1, of the applicable year provided on Appendix 10, Prohibited Vegetation Removal Schedule, a parcel owner of a property located within the 500-foot buffer area around each natural area listed in Appendix 9, Natural Areas shall remove or caused to be removed or eradicated, the prohibited invasive non-native vegetation as listed in Appendix 10, Prohibited Vegetation Removal Schedule, unless an exemption is provided under Art. 14.D.7, Exemptions, of this Chapter. [Ord. 2008-040]
- B. For parcels located outside the 500-foot buffer area around each natural area listed in Appendix 9, Natural Areas, a parcel owner shall remove or cause to be removed old world climbing fern and air potato as listed in Appendix 10, Prohibited Vegetation Removal Schedule, unless an exemption is provided under Art. 14.D.7, Exemptions, of this Chapter. [Ord. 2008-040]
- C. Upon removal of prohibited invasive non-native vegetation under this Chapter or any other Ordinance requiring removal of this nuisance vegetation, the parcel owner shall maintain the parcel free of prohibited invasive non-native vegetation.
- D. In accordance with Art. 14.C.9, Removal of Prohibited Invasive Non-Native Vegetation, improved parcels located in unincorporated Palm Beach County, approved or constructed on or after April 28, 1986, shall be maintained free of prohibited vegetation listed in Appendix 5, Prohibited Invasive Non-Native Vegetation. The applicable year as described in Art. 14.D.6.A and provided in Appendix 10, Prohibited Vegetation Removal Schedule, does not apply to these parcels, instead parcel owners of these improved parcels shall

immediately and perpetually maintain them free of all prohibited invasive non-native vegetation. [Ord. 2008-040] [Ord. 2009-040]

- E. Planting or installation of this vegetation is prohibited. [Ord. 2008-040]

## **Section 7 Exemptions**

- A. For parcels impacted by greater than 30 percent coverage of prohibited invasive non-native vegetation or parcels containing 100 acres or greater in size, a management plan may be approved by ERM to space the eradication rate over an extended period. To be eligible for this approval, the management plan must be provided to, and approved by ERM, and eradication begun prior to the required date for removal or eradication of the prohibited invasive non-native vegetation addressed in the plan.
- B. For parcels or portions of parcels that necessitate phased removal or eradication of prohibited invasive non-native vegetation in response to a documented need for maintenance of existing wildlife values, a management plan may be approved by ERM to extend the time for removal.

## **Section 8 Enforcement**

- A. Violations of this Chapter shall be:
  - 1. Failure of a parcel owner to remove or eradicate vegetation in accordance with Art. 14.D.6.A and Art. 14.D.6.D, Removal of Prohibited Invasive Non-Native Vegetation. [Ord. 2008-040] [Ord. 2009-040]
  - 2. Failure of a parcel owner to maintain non-exempt parcels free of prohibited invasive non-native vegetation in accordance with Art. 14.D.6.B, of this Chapter.
  - 3. Failure of a parcel owner to comply with a non-compliance or notice of violation timeframe as described in Art. 14.D.8.B.3, and Art. 14.D.8.B.4. [Ord. 2008-040]
- B. The following are procedures which are to be followed for compliance and enforcement with this Chapter:
  - 1. Inspection of a parcel to determine the possible location of prohibited invasive non-native vegetation.
  - 2. Preparation and provision of an information notice informing the parcel owner of prohibited invasive non-native vegetation on the parcel and instructions for the removal or eradication of the vegetation and a timeframe provided for compliance. A follow-up inspection is conducted.
  - 3. Preparation and provision of a non-compliance notice to the parcel owner concerning the possible violation of this Chapter, including a stated timeframe of 30 days for compliance. [Ord. 2008-040]
  - 4. Preparation and provision of a notice of violation to the parcel owner concerning the possible violation of this Chapter and failure to comply with the non-compliance notice, including a stated timeframe of 30 days for compliance. [Ord. 2008-040]
  - 5. Preparation and provision of a Notice of Hearing to the parcel owner concerning the possible violation of this Chapter, failure to comply with a notice of violation, and an order to appear before the Groundwater and Natural Resources Protection Board (GNRPB).
  - 6. The decision of the GNRPB, which may include corrective actions and civil penalties in the maximum amount of 1,000 dollars per day, per violation, shall be the final administrative action on behalf of ERM and PBC. Any person who is a party to the proceeding before the GNRPB may appeal to the Circuit Court of PBC in accordance with applicable Florida Appellate Rules.
- C. Additional remedies for enforcement include any applicable remedies under F.S. ch. 125 and F.S. ch. 162, as amended, and other legal action, including but not limited to, administrative action and requests for temporary and permanent injunctions to enforce the provisions of this Chapter. [Ord. 2008-040]
- D. In order to provide an expeditious settlement that would be beneficial to the enforcement of this Chapter and be in the best interest of the citizens of PBC, the Director of ERM is authorized to enter into voluntary consent (settlement) agreements with alleged violators. Any such agreement shall be a formal written consent agreement between ERM on behalf of PBC, by and through its Director, and any such alleged violators, and shall be approved as to form and legal sufficiency by the County Attorney's Office. The agreement can be entered into at any time prior to the hearing before the GNRPB.
  - 1. Conditions**

Such consent agreements may be conditioned upon a promise by the alleged violator to:

    - a. Remove or eradicate prohibited invasive non-native vegetation and maintain the parcel free of this vegetation, and
    - b. Remit payment of a monetary settlement not to exceed the maximum amount allowed per violation, as set forth in this Chapter, and
    - c. Remit payment for costs and expenses of PBC for investigation and enforcement, and
    - d. Any other remedies and corrective action deemed necessary and appropriate by the Director of ERM to ensure compliance with this Chapter.

2. The consent agreement shall not serve as evidence of a violation of this Chapter and shall expressly state that the alleged violator neither admits nor denies culpability for the alleged violations by entering into such agreement. In addition, prior to entering into any such consent agreement, each alleged violator shall be apprised of the right to have the matter heard by the GNRPB in accordance with the provisions of this Chapter, and that execution of the agreement is not required.
  3. The consent agreement shall be valid and enforceable in a court of competent jurisdiction in PBC and shall abate any enforcement proceedings available to ERM for so long as the terms and conditions of such agreement are complied with. In the event the alleged violator fails to comply with the terms and conditions set forth in the executed agreement, the Director of ERM may either:
    - a. Consider the consent agreement void and pursue any remedies available for enforcement of the applicable provisions of this Chapter; or
    - b. Initiate legal proceedings for specific performance of the consent agreement.
- E. All monies collected pursuant to violations of this Chapter whether from consent agreement or the GNRPB shall be deposited in the PBC Pollution Recovery Trust Fund.



## APPENDIX 5 PROHIBITED INVASIVE NON-NATIVE VEGETATION

Common Name	Scientific Name	Type
Melaleuca, Punk Tree, or Paper Tree	<i>Melaleuca quinquenervia</i>	Tree
Brazilian Pepper	<i>Schinus teribinthifolius</i>	Tree
Australian Pine	<i>Casuarina</i> spp.	Tree
Earleaf Acacia	<i>Acacia auriculiformis</i>	Tree
Kudzu	<i>Pueraria montana (P. lobata)</i>	Vine
Climbing Fern	<i>Lygodium</i> spp.	Vine
Air Potato Vine	<i>Dioscorea bulbifera</i>	Vine
Carrotwood	<i>Cupaniopsis anacardioides</i>	Tree
Schefflera	<i>Schefflera actinophylla</i>	Tree

## APPENDIX 6 INVASIVE NON-NATIVE VEGETATION

Common Name	Scientific Name	Type
Banyan	<i>Ficus bengalensis</i>	Tree
Bishop-Wood	<i>Bischofia javanica</i>	Tree
Cat's Claw	<i>Mimosa pigra</i>	Shrub
Chinese Tallow Tree	<i>Sapium sebiferum</i>	Vine
Portia Tree or Seaside Mahoe	<i>Thespesia populnea</i>	Tree
Downy Rose Myrtle	<i>Rhodomyrtus tomentosus</i>	Shrub
Jasmine	<i>Jasminum dichotomum</i>	Shrub
Java Plum	<i>Syzygium cumini</i>	Tree
Lather Leaf	<i>Colubrina asiatica</i>	Vine
Lofty Fig	<i>Ficus altissima</i>	Tree
Mahoe	<i>Hibiscus tiliaceus</i>	Tree
Shoebuttan Ardisia	<i>Ardisia solanaceae</i>	Shrub
Woman's Tongue	<i>Albizia lebbek</i>	Tree

## APPENDIX 7 SPECIMEN TREE LIST

Common Name	Scientific Name	Trunk Size (Inches)	
		DBH	Circumference
Bald Cypress	<i>Taxodium distichum</i>	13	42
Dahoon Holly	<i>Ilex cassine</i>	4	13
FL. Strangler Fig	<i>Ficus aurea</i>	25	78
Green Buttonwood	<i>Conocarpus erecta</i>	13	42
Gumbo Limbo	<i>Bursera simaruba</i>	13	41
Laurel Oak	<i>Quercus laurifolia</i>	18	56
Live Oak	<i>Quercus virginiana</i>	23	72
Mahogany	<i>Swietenia mahogani</i>	14	43
Pond Cypress	<i>Taxodium ascendens</i>	13	42
Red Bay	<i>Persea borbonia</i>	14	43
Red Maple	<i>Acer rubrum</i>	13	40
Red Mulberry	<i>Morus rubra</i>	14	43
Sand Pine	<i>Pinus clausa</i>	9	27
Seagrape	<i>Coccoloba uvifera</i>	10	32
Slash Pine	<i>Pinus elliottii var. densa</i>	14	45
Southern Red Cedar	<i>Juniperus silicicola</i>	20	64
Swamp Bay	<i>Persea palustris</i>	14	43
Sweet Bay	<i>Magnolia virginiana</i>	12	38

**APPENDIX 8 INVASIVE NON-NATIVE VEGETATION WITHIN PRESERVES**

<b>Common Name</b>	<b>Scientific Name</b>	<b>Type</b>
Arrowhead Vine	<i>Syngonium podophyllum</i>	Vine
Asparagus Fern	<i>Asparagus densiflorus</i>	Ground cover
Banyan	<i>Ficus bengalensis</i>	Tree
Beach Naupaka	<i>Scaevola sericea</i>	Shrub
Bishop-Wood	<i>Bischofia javanica</i>	Tree
Caesar Weed	<i>Urena lobata</i>	Shrub
Cat's Claw	<i>Mimosa pigra</i>	Shrub
Cat's Claw Vine	<i>Macfadyena unguis-cati</i>	Vine
Castor Bean	<i>Ricinus communis</i>	Herb
Chinese Privet	<i>Ligustrum sinense</i>	Shrub
Chinese Tallow Tree	<i>Sapium sebiferum</i>	Vine
Cogon Grass	<i>Imperata cylindrica</i>	Grass
Coral Ardisia	<i>Ardisia crenata</i>	Shrub
Dodder Vine	<i>Cuscuta exaltata</i>	Vine
Downy Rose Myrtle	<i>Rhodomyrtus tomentosus</i>	Shrub
Gold Coast Jasmine	<i>Jasminum dichotomum</i>	Shrub
Guava	<i>Psidium guajava</i>	Tree
Guinea Grass	<i>Panicum maximum</i>	Grass
Japanese Climbing Fern	<i>Lygodium japonicum</i>	Vine
Java Plum	<i>Syzygium cumini</i>	Tree
Lantana	<i>Lantana camara</i>	Shrub
Lather Leaf	<i>Colubrina asiatica</i>	Vine
Laurel Fig	<i>Ficus microcarpa</i>	Tree
Lead Tree	<i>Leucaena leucocephala</i>	Tree
Lofty Fig	<i>Ficus altissima</i>	Tree
Mahoe	<i>Hibiscus tiliaceus</i>	Tree
Mother-in-Law Tongue	<i>Sansevieria hyacinthoides</i>	Ground cover
Natal Grass	<i>Melinis repens</i>	Grass
Oyster Plant	<i>Tradescantia spathacea</i>	Shrub
Pothos	<i>Epipremnum pinnatum</i>	Vine
Portia Tree or Seaside Mahoe	<i>Thespesia populnea</i>	Tree
Rosary Pea	<i>Abrus precatorius</i>	Vine
Sewer Vine	<i>Paederia cruddasiana</i>	Vine
Shoebuttan Ardisia	<i>Ardisia solanaceae</i>	Shrub
Skunk Vine	<i>Paederia foetida</i>	Vine
St. Augustine	<i>Stenotaphrum secundatum</i>	Grass
Strawberry Guava	<i>Psidium cattleianum</i>	Tree
Stinking Passion Vine	<i>Passiflora foetida</i>	Vine
Surinam Cherry	<i>Eugenia uniflora</i>	Shrub
Torpedo Grass	<i>Panicum repens</i>	Grass
Tuberous Sword Fern	<i>Nephrolepis cordifolia</i>	Ground cover
Turkey Berry	<i>Solanum torvum</i>	Shrub
Two-Leaf Nightshade	<i>Solanum diphyllum</i>	Shrub
Wedelia	<i>Wedelia trilobata</i>	Vine
Wild Balsam Apple	<i>Momordica charantia</i>	Vine
Woman's Tongue	<i>Albizia lebeck</i>	Tree
Winged Yam	<i>Dioscorea alata</i>	Vine

[Ord. 2005-002] [Ord. 2019-034]

## APPENDIX 9 NATURAL AREAS

The following are ultimate boundaries of natural areas acquired under the 1991 Sensitive Lands or 1999 Conservation Lands bond issues as listed in Resolution No. R-99-1073 as well as natural areas acquired by other governmental entities in PBC. Maps of each area are designated by range, township, and section with its associated 500-foot buffer and are on file at ERM for inspection. [Ord. 2016-042]

### Incorporated Palm Beach County

<b>Boca Raton</b>	Blazing Star Preserve (R42 T47 S25) [Ord. 2006-036]
	Cypress Knee Slough Preserve (R42 T47 S23/24)
	Florida Atlantic University Ecological Site (R42 T47 S12/13; R43 T47 S07/18)
	Gopher Tortoise Preserve (R43 T46 S32)
	Gumbo Limbo Environmental Complex & Red Reef Park Dune (R43 T47 S16/21)
	Pondhawk Natural Area (R42 T47 S12)
	Rosemary Ridge Preserve (R43 T46 S32)
	Serenoa Glade Preserve (R42 T47 S24)
	South Beach Park Dune (R43 T47 S21)
	Yamato Scrub Natural Area (R43 T46 S31; R43 T47 S06)
<b>Boynton Beach</b>	Rosemary Scrub Natural Area (R43 T45 S09/16)
	Seacrest Scrub Natural Area (R43 T46 S04)
<b>Delray Beach</b>	Delray Oaks Natural Area (R43 T46 S30)
	Leon Weeks Preserve (R43 T46 S29)
<b>Highland Beach</b>	Highland Beach Mangrove Preserve (R43 T46 S33)
<b>Hypoluxo</b>	Hypoluxo Scrub Natural Area (R43 T45 S10)
<b>Juno Beach</b>	Juno Dunes Natural Area (R43 T41 S20/21/28/29)
<b>Jupiter</b>	Delaware Scrub Natural Area (R42 T41 S02) [Ord. 2006-036]
	Jupiter Ridge Natural Area (R43 T41 S07/08/17/18)
	Limestone Creek Natural Area (R42 T41 S03)
	North Jupiter Flatwoods Natural Area (R42 T40 S33)
	Riverbend Park (R42 T40 S32/33; R42 T41 S05-08/17)
<b>Lake Park</b>	Lake Park Scrub Natural Area (R43 T42 S20)
<b>Lantana</b>	Lantana Scrub Natural Area (R43 T44 S32)
<b>North Palm Beach</b>	John D. MacArthur Beach State Park (R43 T42 S10/15)
<b>Ocean Ridge</b>	N. Ocean Ridge Mangroves (R43 T45 S22)
	Ocean Ridge Natural Area (R43 T45 S27) [Ord. 2008-040]
<b>Palm Beach</b>	Palm Beach Island Sanctuaries (R43 T43 S34; R43 T44 S03/10/15)
<b>Palm Beach Gardens</b>	Frenchman's Forest Natural Area (R43 T41 S32; R43 T42 S05)
	Hungryland Slough Natural Area (R41 T41 S28/29/32/33)
	Loxahatchee Slough Natural Area – Includes Sandhill Crane (R41 T41 S23-28/34-36; R41 T42 S01/02/11-13; R42 T41 S19-21/28-32; R42 T42 S05-09/16/17)
<b>Royal Palm Beach</b>	Royal Palm Beach Pines Natural Area (R41 T43 S15/16)
<b>West Palm Beach</b>	Winding Waters Natural Area (R42 T42 S35; R42 T43 S02)
	Grassy Waters Preserve (R42 T42 S07/08/16-21/28-33; R42 T43 S03-10/15-18)

### Unincorporated Palm Beach County

Acreage Pines Natural Area (R41 T42 S32)
Arthur R. Marshall Loxahatchee NWR (R39 T44 S12/13/23-27/34-36; R39 T45 S01-03/10-15/22-27/34-36/L1-3; R39 T46 S01-03/10-14/23-25; R40 T43 S32/L5; R40 T44 S04-09/15-36; R40 T45 S01-42; R40 T46 S01-36; R40 T47 S01-06/08-14; R41 T44 S30-32/40-42; R41 T45 S04-10/14-23/26-35; R41 T46 S02-11/14-23/26-35; R41 T47 S03-10/15-19)
C-18 Triangle Natural Area (R42 T41 S08)
Cypress Creek Natural Area (R41 T40 S36; R42 T40 S31/32; R42 T41 S06)
Daggerwing Nature Center Preserve (R41 T47 S11/14)
Donald Ross Road at the ICW (R43 T41 S29)
DuPuis Management Area (R38 T40 S31-36; R38 T41 S01-06/08-16/22-26/36; R39 T41 S19/30-31)
East Conservation Area (R41 T45 S14) [Ord. 2006-036]
High Ridge Scrub Natural Area (R43 T45 S09)
Hungryland Slough Natural Area (R41 T41 S19/20/29-32)
Jackson Riverfront Pines (R42 T40 S25)
Jupiter Inlet (R43 T40 S31)
J.W. Corbett/Lox Refuge Connector (R40 T43 S05/06/08)

J.W. Corbett Wildlife Management Area (R39 T40 S31-36; R39 T41 S01-36; R39 T42 S01-06/08-16; R40 T40 S31/32; R40 T41 S05-08/18-36; R40 T42 S01-18/21/22; R41 T41 S31; R41 T42 S06/07/18)
Lake Okeechobee Connector (R37 T40 S35/36)
Loxahatchee Mitigation Bank (R41 T46 S14/23/25/26/35; R41 T47 S02)
Sweetbay Natural Area (R41 T41 S34; R41 T42 S01-03) [Ord. 2006-036]
Okeehhelee Nature Center Preserve (R42 T44 S04/05)
Pine Glades Natural Area (R40 T40 S31-33; R40 T41 S01-04/10-13; R41 T41 S01/05-09) [Ord. 2006-036]
Paw-Paw Preserve Natural Area (R43 T42 S04)
Pine Jog Environmental Education Center (R42 T44 S03)
Pond Cypress Natural Area (R41 T43 S01/12/13/24)
Riverbend Park (Reese Property) – See Riverbend Park under Jupiter municipality
Royal Palm Beach Pines Natural Area (R41 T43 S16)
Strazzulla Tract (R41 T44 S34/39-40; R41 T45 S03/04/10/11/14/15)

## APPENDIX 10 PROHIBITED VEGETATION REMOVAL SCHEDULE

Common Name	Scientific Name	Year
Climbing Fern (Non-Native)	<i>Lygodium ssp.</i>	2004
Air Potato Vine	<i>Dioscorea bulbifera</i>	
Melaleuca, Punk Tree, or Paper Tree	<i>Melaleuca quinquenervia</i>	2006
Brazilian Pepper	<i>Schinus terebinthifolius</i>	2008
Carrotwood	<i>Cupaniopsis anacardioides</i>	
Earleaf Acacia	<i>Acacia auriculiformis</i>	2010
Schefflera	<i>Schefflera actinophylla</i>	
Australian Pine	<i>Casuarina spp.</i>	2012
Kudzu	<i>Pueraria montana var. lobata</i>	

### **Amendment History:**

[Ord. 2003-067; January 1, 2004] [Ord. 2005-002; February 2, 2005] [Ord. 2006-004; March 1, 2006] [Ord. 2006-010; May 24, 2006] [Ord. 2006-036; August 29, 2006] [Ord. 2007-013; September 4, 2007] [Ord. 2008-003; January 30, 2008] [Ord. 2008-037; September 4, 2008] [Ord. 2008-040; September 29, 2008] [Ord. 2009-040; October 28, 2009] [Ord. 2010-022; September 1, 2010] [Ord. 2011-001; February 4, 2011] [Ord. 2012-027; August 31, 2012] [Ord. 2013-001; January 31, 2013] [Ord. 2014-001; February 3, 2014] [Ord. 2016-042; September 27, 2016] [Ord. 2018-018; August 29, 2018] [Ord. 2019-034; August 27, 2019] [Ord. 2021-023; September 3, 2021]