

## Chapter 8. – Landscape, Streetscape, Treescape

### Article V. – Specific Landscaping Requirements

#### Sec. 8-14. - Shoreline Alteration and Landscaping.

- (a) *Purpose and intent.* The regulations established in this section are intended to implement policies adopted in the Conservation Element of the City of Maitland's Comprehensive Development Plan. It is the intent of the City of Maitland to promote the health, safety, and welfare of existing and future residents, property owners, and visitors to the city by establishing minimum standards for the protection of natural plant communities along wetlands and shorelines, and the installation and continued maintenance of wetland and waterfront vegetative areas within Maitland.

The regulations in this chapter are created in order to achieve the following:

- (1) *Improve environmental quality.* The regulations are designed to improve environmental quality by protecting vegetation in riparian and littoral zones. Such vegetation greatly benefits the environment by: (1) slowing and filtering rainfall runoff, thereby trapping and settling out sediments and pollutants and hence improving water quality; (2) maintaining permeable land areas essential to surface water management and aquifer recharge; (3) reducing and reversing air, noise, heat, chemical and nutrient pollution; through the biological capacities of trees and other vegetation; (4) providing habitat and cover and hence promoting wildlife conservation; (5) binding soil particles and holding soils together against the effects of wind, waves, and water and hence reducing erosion caused by construction, neglect, trampling, or overuse of shorelines; and (6) providing food to micro-organisms, benthic organisms, insects, and fish and hence promoting biological productivity.
  - (2) *Promote water conservation.* The regulations are designed to promote conservation of potable and nonpotable water by encouraging the preservation of existing plant communities, encouraging the planting of natural or uncultivated areas, and encouraging the use of site-specific plant materials well-suited to soil moisture conditions.
  - (3) *Preserve existing vegetation.* The regulations are designed to preserve existing natural vegetation and incorporate native plants, plant communities, and ecosystems into landscape.
  - (4) *Removal of invasive species.* The regulations encourage the control of certain exotic plant species which have become nuisances due to their tendency to damage public and private works, negatively affect the public health, and/or disrupt or destroy native ecosystems.
  - (5) *Human values.* The regulations provide direct and important physical, psychological, and economic benefits to human beings by regulating landscaping activities in order to ensure attractive landscapes, maintain historic waterfront views, break up the monotony and soften the harsher aspect of urban development, improve water quality, improve fisheries, improve recreational opportunities, and hence add value to homes and other waterfront property.
  - (6) *Aesthetics.* Forested riparian areas and littoral zone vegetation add to the natural beauty of lakes, wetlands, and other water bodies as well as provide means for passive recreation such as fishing, bird watching, and other activities. The regulations are designed to improve the aesthetic appearance of residential and non-residential areas by providing for incorporation of natural and planned open space in ways that will harmonize and enhance the natural and artificial environment.
  - (7) *Improved administration and enforcement.* The requirements establish procedures and standards for the administration and enforcement of this chapter, integrated and consistent with other provisions of the City Code.
- (b) *Shoreline alteration permit.* No person shall cause to be performed any shoreline alteration, including the removal of shoreline or waterfront vegetation, without first obtaining a City of Maitland Shoreline Alteration Permit in conformance with this section. Shoreline alteration permits shall be obtained in

addition to plant management permits issued by the Florida Fish and Wildlife Conservation Commission (FFWCC) Invasive Plant Management Section. No wetland vegetation shall be trimmed, cut, or removed from any shoreline, wetland, or waterway without a City of Maitland Shoreline Alteration Permit, unless the activity is exempt per subsection (b)(1) of this section.

- (1) No permit shall be required for the following:
  - a. Any person clearing less than fifty (50) feet or fifty (50) percent of the shoreline frontage, whichever is less.
  - b. Any person clearing vegetation within the physical foot print of a dock, gazebo or boathouse approved for construction by the city.
  - c. Lawn mowing, trimming of landscape, and other lawn maintenance activities which do not result in the clearing of vegetation below the normal high water elevation.
  - d. The repair or maintenance of an existing stormwater or drainage control system.
  - e. Routine shoreline maintenance.
- (2) Applicants for a shoreline alteration permit shall submit a proposed site plan, photographs or drawings showing existing conditions, and information addressing the following items:
  - a. The area, and types of shoreline and waterfront vegetation proposed to be removed and to be maintained;
  - b. A plant survey showing the location and size of any trees, shrubs, and clumps of vegetation in association with the shoreline and littoral zone (shoreline area including all land six (6) inches above the normal high water elevation and less to a maximum of three (3) feet of water depth below the normal high water elevation);
  - c. A plan showing any proposed changes in shoreline contour, including existing and proposed topographical elevations, and the location and quantities of material to be removed and/or filled, in cubic yards (Note: An approved dredge and fill permit from the Florida Department of Environmental Protection, Environmental Resource Permitting Division is required prior to issuance of a city permit);
  - d. A plan showing the proposed method for erosion control, soil stabilization, sediment and turbidity control, and stormwater filtering and nutrient reduction; and
  - e. The vegetation removal methods proposed such as hand removal, mechanical removal, or chemical treatment.
  - f. The reasons for the request for the permit, the stated need for vegetation removal, and an explanation of the hardship incurred if a permit is not granted.
- (3) A permittee is allowed to maintain a cleared access corridor not to exceed fifty (50) feet in width or fifty (50) percent of the shoreline, whichever is less. Vegetation within such an access corridor may be cleared from the normal high water elevation, (NHWE) (listed in Table 8-1, also in sections 11-78, et seq. of the City Code, Boat Dock Ordinance) of the lake out to navigable open water. The remainder of the shoreline must have vegetation present. In areas of shoreline where vegetation must remain present, a permittee has the option of leaving the existing plants or removing any nuisance or non-native vegetation and replanting the entire affected area with beneficial vegetation ("mitigation"), or native aquatic plants. Previously denuded areas outside of the access corridor must also be planted with native aquatic vegetation.
- (4) Wetlands preserved in their natural state shall not be required to have additional shoreline landscaping.
- (5) All cleared or trimmed vegetation shall be immediately removed from the lake, shoreline area, and dock for upland disposal offsite.
- (6) Revegetation required after clearing shall be completed within ninety (90) days from the date the shoreline alteration permit is issued. A survival rate of eighty (80) percent shall be required

to be maintained one (1) year after planting. If compliance is not achieved within one year, additional plantings shall be required until a survival rate of eighty (80) percent is met.

- (7) Shoreline planting standards. Littoral zones shall be planted with vegetation throughout all impacted areas outside of the access corridor. Revegetated areas shall encompass the same percentage of shoreline coverage that was previously present. All emergent aquatic plants shall be planted a maximum of two (2) feet on center, unless, due to size or type of plantings, the city approves an alternate spacing plan.
  - (8) Nothing in this section is intended to relieve a property owner or contractor of any obligation under state law to obtain required permits from the Florida Fish and Wildlife Conservation Commission or other governmental authorities having jurisdiction when applicable.
- (c) *Shoreline alteration regulations.* Any (1) digging or adding of fill which alters or changes the shoreline or existing topography of the shoreline or waterfront of any water body within the city or (2) any removal of any shoreline or waterfront vegetation shall be prohibited, unless done in accordance with an approved shoreline alteration permit.
- (1) The city manager or his/her designee shall investigate potential violations of this section and report them to the code enforcement board or special magistrate pursuant to the code enforcement procedures found in Chapter 5.3 of the Maitland City Code.
  - (2) If the code enforcement board or special magistrate finds that a violation of this section has occurred, the following guidelines shall be used for the application of penalties.
    - a. Remedial action shall be taken to restore the property consistent with a restoration plan approved by the city manager or his/her designee. The restoration plan shall include payment of required permit fee and may require vegetation and/or tree replacement and required mitigation of any other damage to the property. Remedial action must be taken within sixty (60) days or as approved by the code enforcement board or special magistrate. The decision of the code enforcement board or special magistrate shall be final.
    - b. Tree removal. Removal of four-inch DBH or greater trees within the shoreline protection area is a violation of this section unless done in accordance with the permit and density requirements of section 8-7.2 of the Maitland City Code. Violations shall be remedied by one or more of the following means:
      1. Replacement at a ratio of one time the cumulative diameter at breast height (DBH) of trees removed to the cumulative caliper of trees to be installed (twenty (20) inches removed = twenty (20) inches replaced). Replacement trees shall be subject to city approval as sustainable in the location where the tree(s) are to be planted. Replacement trees shall have a two-year warranty.
      2. Payment into a dedicated lake and wetland restoration/enhancement fund equal to the cost of replacement. The cost of replacement shall be determined based on the DBH of the removed or damaged tree.
        - i. Trees less than twenty (20) inches in caliper DBH: Ninety dollars (\$90.00) per inch.
        - ii. Trees more than twenty (20) inches in caliper DBH: Three hundred sixty dollars (\$360.00) per inch.
      3. Trees that are considered to be a hazard to life, health, or human safety are exempt from these conditions and may be removed from within the shoreline protection area upon written approval by the city manager or his/her designee.
  - (3) Revocation of permit: Any permit issued may be revoked by the city for violation of, or noncompliance with, the provisions of a permit, this chapter, mistake of fact, or conflict with other city, county, or state regulations.

- (4) Permitting appeals: Any person or persons aggrieved by a final decision of the city regarding issuance, revocation, denial, or modification of a permit shall have the right to appeal. The appeal shall be carried out as follows:

The aggrieved party shall submit, in writing, the reasons for the appeal and the basis for the dispute. Such appeal shall be made to the Maitland City Council via submission to the Lakes Management Coordinator within thirty (30) calendar days of the decision being appealed. The appeal will then be scheduled for the next available meeting of the city council. The decision of the city council shall be final.

- (d) *Shoreline area planting requirements.* All development and redevelopment occurring on property adjacent to surface water bodies, wetlands, or canals, or which include a wet retention design, shall be planted with native aquatic vegetation. Property owners are encouraged to plant a variety of different aquatic species to promote biodiversity.
- (1) The Florida Exotic Pest Plant Council (FLEPPC) provides biannually updated lists of species considered to be most invasive or potentially most invasive in Florida. "Category I" plants on this list are considered to be non-native invasive plants that are currently disrupting native plant communities in certain areas or throughout the state. "Category II" plants have the potential to disrupt native plant communities. No Category I or Category II plants shall be permitted to be planted on any waterfront parcel within the City of Maitland. A list of these species can be found at the City of Maitland Public Works Department. It is prohibited to install any aquatic plant listed on the prohibited aquatic plant list established by the Florida Department of Environmental Protection or Florida Fish and Wildlife Conservation Commission. A copy of the FLEPPC list can be obtained at the Maitland Public Works Department.
- (2) The normal high water elevations for the city's lakes are listed in Table 8-1. For water bodies not shown on the table but connected hydrologically, the elevations for the appropriate, connected lake shall be used. For wetlands and other water bodies, a formal wetland delineation may be required.

Table No. 8-1. Lake Elevations

Lake	Normal High Water Elevation (NHWE)	100-Year Flood Elevations
Catherine	69.20	71.40
Charity	67.50	73.20
Destiny	89.40	91.00
Eulalia	69.20	71.40
Faith	71.30	73.40
Gem	70.00	73.00
Harvest	90.27	92.00

Hope	67.50	74.30
Hungerford	93.44	96.00
Jackson	81.34	84.40
Lily	71.10	73.40
Lomond	89.40	91.00
Love	72.70	74.00
Lucien	91.42	94.00
Maitland	66.50	70.00
Minnehaha	66.50	68.30
Nina	66.50	68.30
Park	71.51	73.00
Shadow	82.60	84.60
Sybelia	71.00	78.00
Seminary	82.50	86.90
<p>NOTE: All elevations in feet above sea level. National Geodetic Vertical Datum of 1929 (NGVD29)  This table is based on the best available data and will be updated as needed to be consistent with  federal flood regulations and Water Management District Rules and guidelines.</p>		

- (e) *Sand beaches and play areas.* Sand brought in to the shoreline protection area must be stabilized and retained above the normal high water elevation to prevent migration into the water body. The intent of this portion of this section is to preserve the natural shoreline ecosystem by ensuring that upland landscape designs, including sand, stabilize the yard and shoreline in such a manner that it shall not be carried into the lake or onto adjacent properties. Sand entering the lake accelerates the natural filling of the water body, alters the shape of the natural shoreline, and negatively impacts benthic organisms and littoral zone plants. To stabilize sand, these requirements must be met:

- (1) A berm and swale system, designed to contain the sand, shall be installed parallel to the shoreline in such a manner that it retains the sand in place during a rain event.
  - (2) A containment barrier made of railroad ties, landscape logs, or similar structures made of concrete, vinyl, or stone shall be installed parallel and perpendicular to the shoreline in a manner that retains the sand in place above the NHWE during a rain event.
- (f) *Fences and walls.* Fences, walls and hedges shall not protrude into the lake beyond the normal high water elevation (NHWE) of the lake. See also section 21-5(III) of the Maitland City Code.
- (g) *Retaining walls and seawalls.* All seawalls are required to be landscaped with aquatic vegetation along the entire length of the littoral zone except for within the access corridor which may be maintained clear for swimming and recreational purposes. For the purposes of this section access corridor shall include any areas devoted to docks, boathouses, or other waterfront structures. All seawalls and retaining walls shall be constructed in accordance with Chapter 11, section 11-79 of the Maitland City Code.
- (h) *Chemicals in the shoreline protection area.* The intent of this section is to reduce the amount of chemicals and nutrients leaching through upland soils and entering lakes and waterways. In lakes, terrestrial chemicals not designed for aquatic use can stimulate algal growth, kill invertebrates and small fish, and destroy lake edge landscaping and desired aquatic plants.
- (1) The use of all fertilizers as well as reclaimed water and non aquatic use pesticide is hereby prohibited within the twenty-five-foot setback from the water's edge within the shoreline protection area. Only herbicides labeled for aquatic use shall be applied below the NHWE of a water body in strict accordance with Chapter 62C-20.0055 of the Florida Administrative Code and per the aquatic plant management permit issued by Florida Fish and Wildlife Conservation Commission.
  - (2) A twenty-five-foot fertilizer free shoreline protection area is hereby required wherein no fertilizers or non aquatic use pesticide shall be applied. The twenty-five-foot setback shall be established upland from the normal high water elevation.
  - (3) Upland waterfront areas shall be fertilized in strict accordance with Chapter 15 Article XVII of the Orange County Code of Ordinances.

(Ord. No. 1196, § 2, 4-12-10; Ord. No. 1233, § 2, 11-26-12)