

CHAPTER 126 - LANDSCAPE ORDINANCE

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS (LDR'S) OF THE CITY CODE, BY AMENDING CHAPTER 126, "LANDSCAPING," BY EXPANDING THE APPLICABILITY, SUBMITTAL REQUIREMENTS FOR LANDSCAPE PLANS, EXPANDING MINIMUM LANDSCAPE STANDARDS, DETAILING MAINTENANCE REQUIREMENTS FOR REQUIRED LANDSCAPING, AND PROVIDING FOR THE DEPOSIT OF FUNDS TO THE CITY OF MIAMI BEACH TREE PRESERVATION TRUST FUND FOR NOT COMPLYING WITH LANDSCAPE REQUIREMENTS; BY AMENDING CHAPTER 130, ENTITLED "OFF-STREET PARKING," ARTICLE III, ENTITLED "DESIGN STANDARDS," TO INCORPORATE LANDSCAPE STANDARDS FOR TEMPORARY AND PROVISIONAL PARKING LOTS INTO THE CITY OF MIAMI BEACH LANDSCAPE ORDINANCE; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, it is the City's intent to prevent the destruction of the City's existing tree canopy and promote its expansion; and

WHEREAS, it is in the best interest of the City to improve the aesthetic appearance of new development and protecting designated historic landscapes; and

WHEREAS, the City seeks to promote sound landscaping principles through the use of drought and salt tolerant plant species and also to promote planting the right tree and plant in the right place; and

WHEREAS, the City seeks to promote the use of trees and shrubs for energy conservation, thereby helping to offset global warming and local heat island effects; and

WHEREAS, the City seeks increase the tree canopy in order to provide shade and coolness in order to encourage pedestrian activity and reduce reliance on single occupancy vehicles; and

WHEREAS, the City seeks to increase and improve green space in order to improve storm water management; and

WHEREAS, the City seeks to utilize landscaping in order to ameliorate noise impacts and light pollution; and

WHEREAS, the City seeks to promote the use of canopy trees to sequester carbon dioxide emissions and that increase climate change; and

WHEREAS, the adoption of the provisions set forth below are necessary to accomplish the above objectives.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. Chapter 126, entitled "Landscaping," of the Code of the City of Miami Beach is hereby amended as follows:

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Chapter 126 - LANDSCAPEING REQUIREMENTS

Sec. 126-1 – Intent and Purpose

It is the intent of these regulations to establish minimum landscape standards for the City of Miami Beach that enhance, improve and maintain the quality of the landscape, and to:

- (a) Prevent the destruction of the City's existing tree canopy and promote its expansion.
- (b) Improve the aesthetic appearance of new development and protecting designated historic landscapes.
- (c) Promote sound landscaping principles through the use of drought and salt tolerant plant species and also to promote planting the right tree and plant in the right place.
- (d) Promote the use of trees and shrubs for energy conservation, thereby helping to offset global warming and local heat island effects.
- (e) Provide shade
- (f) Improve stormwater management.
- (g) Ameliorate noise impacts and light pollution.
- (h) Promote the use of canopy trees to sequester carbon dioxide emissions.

Sec. 126-2 – Definitions

The Definitions Section within Chapter 46- Environment, of the Code of the City of Miami Beach, forms part of this regulation. For the purposes of this Chapter, the following words and phrases shall have the meaning respectively ascribed to them by this Section:

American National Standards Institute A-300 Tree Care Standards Manual ("ANSI A-300 Standards") is a tree manual which establishes performance standards for the care and maintenance of trees, shrubs, and other woody plants.

Applicant: A person who is the owner, authorized agent of the owner, or lessee of a property under a written lease authorized to apply for a building permit.

Base plan: A plan of the project site, drawn to scale that shows all proposed ground floor improvements and clearly defines all landscape areas. This plan is used as a base for the required plans in this ordinance.

Buildable area: The portion of the site exclusive of the required yard areas as defined by the zoning ordinance of the City and its successors.

Clear wood / clear trunk: A measurement of the woody trunk taken from grade to the beginning of the fronds or branches used to determine the sizes of certain palms and trees.

Controlled tree species: Those tree species listed in the Miami-Dade County Landscape Manual and included within Section 24-49 (f) I & II of the Miami-Dade County Code which tend to become nuisances because of their ability to invade proximal native plant communities or native habitats, but which, if located and cultivated properly may be useful or functional as elements of landscape design.

Crown or canopy: The upper part of a tree, measured from the lowest branch, including all branches and foliage.

Energy conservation zone: The areas close to buildings that are planted with trees, palms, and shrubs, in order to provide optimal shading patterns on absorbing surfaces within 20 feet of the building, walls, windows, and the immediately adjacent ground.

Exotic tree species: A plant species that has been introduced from other regions, and is not native to the region to which it is introduced.

Forbs: A broad-leaved herb other than a grass, especially one growing in a field or meadow.

Environment and Sustainability Department: The agency of the City charged with implementing specific tree protection standards, or a successor division or department as determined by the City Manager or his/her designee.

Grey wood: A measurement used to determine the sizes of Royal Palms taken from grade to the smooth green five-foot-high region above the trunk called the "crownshaft."

Landscape manual: The Miami-Dade County Landscape Manual, latest edition, which is the official landscape manual issued by Miami-Dade County, Florida, and incorporated herein by reference. The landscape manual, as amended from time to time, is adopted by reference by the City and deemed incorporated by reference as if set forth herein. If a conflict arises between the landscape manual and this Chapter, the latter shall prevail.

Large shrubs or small trees: Mid-level woody plants, trees, and palms, that comply with the minimum size requirements described in this Chapter, planted as an understory to large canopy trees, palms, and planted with smaller shrubs and groundcover plantings, in order to achieve a layering of plants.

Native tree species: Plant species with geographic distribution indigenous to all or part of Miami-Dade County. Plants which are described as being native to Miami-Dade County in botanical manuals such as, the Miami-Dade County Landscape Manual, are considered native plant species within the meaning of this definition.

Net lot area: the total horizontal area within the lot lines of the lot.

Owner: Any person, entity, corporation, partnership, trust, holding company, limited liability company or any other legally recognized entity that is the legal, beneficial or equitable owner of any interest whatsoever in the property. Owner shall include any purchaser, assignee, successor, or transferee of any interest whatsoever in the property regarding any provisions of this Chapter.

Roots/root systems: The tree part containing the organs used for extracting water, gases and nutrients from the soil and atmosphere.

Site plan: A drawing illustrating a proposed development drawn to scale indicating site elevations, roadways and location of all relevant site improvements including structures, parking, other paved areas, ingress and egress drives, landscaped open space and signage.

Sound nursery practices: The procedures of landscape nursery work that comply with the standards set by the state department of agriculture and consumer services.

Spread: The average diameter of the crown of a tree.

Substantial rehabilitation: Buildings which are repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official.

Tree: Any self-supporting woody plant or palm which usually has a single main axis or trunk, that comply with the minimum size requirements described in this Chapter. This definition excludes plants which are defined as shrubs, hedges, vines, or ground covers.

Tree Trust Fund: The City of Miami Beach Tree Preservation Trust Fund established in Chapter 46, Section 46-65 of the Code of the City of Miami Beach.

Viable tree: A tree, which in the judgment of the City of Miami Beach Urban Forester is capable of sustaining its own life processes, unaided by man for a reasonable period of time.

Sec. 126-3 – Short Title and Applicability

- (a) **Title.** This regulation shall be known and may be cited as the “City of Miami Beach Landscape Ordinance”.
- (b) **Applicability.** All building permits for new construction, substantial rehabilitation or additions to existing buildings, and projects that are reviewed under the conditional use, variance, design review, and / or certificate of appropriateness processes, inclusive of City projects. The Planning Director, or designee shall conduct all landscape reviews pursuant to the regulations set forth in this Chapter and consistent with the design review or certificate of appropriateness regulations, as applicable and as set forth in Chapter 118 of these land development regulations. The landscape review shall include but not be limited to parking decks, all required yards, decks associated with recreational facilities, or any open space areas that are visible to the public.
- (c) **New Development and Permits for demolition or wrecking.** Permits for new development and for demolition or wrecking shall require a vegetation survey pursuant to Section 126-4 (a), in order to insure that valuable existing trees are not damaged or destroyed.

Sec. 126-4 – Plans Required

All plans required in this Chapter shall be reviewed by the Planning Department in accordance with the Code of the City of Miami Beach, the guidelines and illustrations provided in the Miami-Dade County Landscape Manual, as well as the Guide to Florida Friendly Landscaping provided by the Florida Yards and Neighborhoods Program. The following shall be required:

(a) Vegetation Survey

Vegetation Survey(s) shall be prepared by, and bear the seal of, a professional land surveyor, licensed to practice in the State of Florida.

Vegetation survey(s) shall provide the accurate location, identification and graphic representation of all existing trees inclusive of the canopy dripline that are a minimum of 10 feet in height and a minimum of three (3) inches in diameter at breast height (DBH) and existing palms that are a minimum of 10 feet in height and a minimum of four (4) inches DBH.

Existing trees and palms shall not be removed until it has been determined that no tree removal permit is required or that a valid tree removal permit has been issued in compliance with Chapter 46 of the Code of the City of Miami Beach.

(b) Tree Disposition Plan

Tree Disposition Plan(s) shall be prepared by, and bear the seal of, a landscape architect licensed to practice in the State of Florida.

Where a Vegetation Survey and Landscape Plan is required, a Tree Disposition Plan shall be submitted concurrently and shall:

- (1) Be drawn to scale and include property boundaries, north arrow, graphic scale, and date;
- (2) Identify, locate, and list all existing trees and specify the condition of each tree and whether such trees are to remain, to be removed or to be relocated on the plan;
- (3) Illustrate the location of all existing structures and/or all proposed new construction, as applicable, the location of any overhead and/or underground utilities, the new locations of existing trees to be relocated on site, and all areas affected by construction-related activities, such as access routes to the property, and staging areas;
- (4) Graphically show the location of the tree protection fence to the dripline for existing trees and palms to remain on the plan;
- (5) Provide a drawing of the City approved tree protection fence detail on the plan; and
- (6) Illustrate the temporary construction parking layout as required by the Parking Department.

(c) Landscape Plans

Landscape Plan(s) shall be prepared by, and bear the seal of, a landscape architect licensed to practice in the State of Florida.

Prior to the issuance of a building permit, the Planning Department shall review a landscape plan; at a minimum, such plan shall include the following:

- (1) The plan shall be drawn to scale and include property boundaries, north arrow, graphic scale, and date;
- (2) All existing and proposed structures, parking spaces, driveways and other vehicular use areas, public sidewalks, right-of-way swale/parkway, curbs, street edge of pavement, easements, and utilities on the property or adjacent property, shall be clearly delineated;
- (3) All landscape features and non-living landscape materials shall be identified;
- (4) All geologic, historic and archeological features to be preserved shall be illustrated;

- (5) The common and scientific name, as well as the quantity and size specifications of all plant materials to be installed shall be clearly indicated; and
- (6) The critical layout dimensions for all trees, plant beds and landscape features shall be provided;
- (7) Method(s) to protect and relocate trees and native plant communities during construction;
- (8) Planting details and specifications; and
- (9) The **Landscape Legend form** shall be affixed to the plan and shall include, but not be limited to, the following:
 - a. The minimum number of required trees per lot, pursuant to Section 126-6;
 - b. The minimum number of required street trees, pursuant to Section 126-6;
 - c. Provided trees per lot;
 - d. Provided street trees;
 - e. Provided shrubs; and
 - f. Maximum allowable percentage of sod within the property.

(d) Irrigation Plans

Irrigation Plan(s) shall be prepared by, and bear the seal of, a landscape architect licensed to practice in the State of Florida, or by persons authorized by Chapter 481, Florida Statutes, to prepare irrigation plans or drawings.

Where a Landscape Plan is required, an Irrigation Plan shall be submitted concurrently and shall:

- (1) Be drawn on a base plan at the same scale as the landscape plan(s);
- (2) Delineate landscape areas, major landscape features and hydrozones;
- (3) Include water source, design operating pressure, flow rate/volume required per zone and application rate;
- (4) Include locations of pipes, controllers, valves, sprinklers, back flow prevention devices, rain switches or soil moisture sensors, electric supply; and
- (5) Irrigation details and specifications.

(e) Site and Landscape Lighting Plans

Site and Landscape Lighting Plan(s) shall be prepared by, and bear the seal of, a landscape architect licensed to practice in the State of Florida, or by persons authorized

by Chapter 481, Florida Statutes, to prepare site and landscape lighting plans or drawings.

Where a Landscape Plan is required, a Site and Landscape Lighting Plan may be submitted concurrently and shall:

- (1) Be drawn on a base plan at the same scale as the landscape plan(s);
- (2) Delineate landscape areas, major landscape features and electrical zones;
- (3) Include existing and proposed lighting equipment and fixture locations with sizes and mounting heights; and
- (4) Lighting equipment details and specifications.

Sec. 126-5 Tree Removal and Preservation

No person, agent, or representative thereof, directly or indirectly, shall cut down, destroy, move or effectively destroy through damaging any tree except pursuant to the procedures and requirements of Chapter 46 of the Code of the City of Miami Beach.

No permit for development activity shall be issued until it has been determined that no tree work permit is required or that a valid tree work permit has been issued in compliance with Chapter 46 of the Code of the City of Miami Beach. The Environment and Sustainability Department is responsible for administering and enforcing this provision in accordance with Chapter 46 of the Code of the City of Miami Beach.

Sec. 126-6 Minimum Standards

The following standards shall be considered minimum requirements unless otherwise indicated in the Land Development Regulations:

(a) Trees

Tree Size: All trees except street trees, shall be a minimum of 12 feet high with a minimum crown spread of six (6) feet and have a minimum caliper of two (2) inches at time of planting, except that 30 percent of the tree requirement may be met by native species with a minimum height of 10 feet and a minimum caliper of one and a half (1½) inches at time of planting.

- (1) Street Tree Size and Spacing:** Street trees shall be of a species typically grown in Miami Beach which normally mature to a height of at least 20 feet. Street tree plantings shall comply with ADA clearance requirements. Furthermore, street trees shall have a minimum clear trunk of four (4) feet, an overall height of 12 to 14 feet and a minimum caliper of three (3) inches at time of planting and shall be provided

along all roadways at a maximum average spacing of 20 feet on center, except as otherwise provided in this ordinance.

The 20-foot average spacing requirement for townhouse or multi-family units shall be based on the total lineal footage of roadway for the entire project and not based on individual lot widths. Street trees shall be placed within the swale area or shall be placed on private property where demonstrated to be necessary due to right-of-way obstructions as determined by the Environment and Sustainability Department. Street trees planted along private roadways shall be placed within seven (7) feet of the consistent with the American Association of State Highway and Transportation Officials (AASHTO) Roadside Design Guide with respect to edge of roadway pavement and/or where present unable to locate within the right of way within seven (7) feet of the sidewalk property line on private property.

The City may require an increase the maximum average spacing due to site-specific constraints, such as, but not limited to, visibility triangles, signage, utilities, view corridors, or the use of large canopy or diameter trees. However, the total number of required trees for this requirement shall be as per a 20-foot average spacing and any required street trees that cannot be provided along the roadway due to a required increase in the maximum average spacing shall be planted elsewhere on the site, or the applicant shall utilize the tree and shrub compliance options, pursuant to section 126-7.

- (2) **Palms as Street Trees:** Single trunk palm species with a minimum of 10 inches diameter at breast height (DBH) and a minimum of 15 feet of clear or grey wood at time of planting may be planted in addition to the required number of street trees. The maximum spacing of palms as street trees shall be 20 feet on center. Palms shall not count towards the required number of street trees. The City may require an increase in the maximum spacing due to site-specific constraints, such as, but not limited to, visibility triangles, signage, utilities, view corridors, or the use of large canopy or diameter trees.
- (3) **Power Lines:** Under high voltage transmission lines installed independent of underbuilt distribution lines, tree height and spread shall not exceed the minimum approach distances specified in the FPL Plant the Right Tree in the Right Place guidelines and illustrations. The maximum spacing of appropriate and allowed tree species planted under power lines shall be 20 feet on center.

The City may require an increase the maximum average spacing due to site-specific constraints, such as, but not limited to, visibility triangles, signage, utilities, view corridors, or the use of large canopy or diameter trees. However, the total number of required trees for this requirement shall be as per a 20-foot average spacing and any required street trees that cannot be provided along the roadway due to a required increase in the maximum average spacing shall be planted elsewhere on the site, or the applicant shall utilize the tree and shrub compliance options, pursuant to section 126-7.

(b) Lawn Grass/Sod Area

- (1) Lawn grass/sod areas shall be planted with species well adapted to localized growing conditions in the City. Grass areas shall be sodded and used in swales or other areas subject to erosion.
- (2) Exclusions from maximum permitted lawn areas:

 - a. Stabilized grassed areas used for parking
 - b. Grassed areas designated on landscape plans and actively used for sports, playgrounds or picnic areas.
 - c. Grassed areas in the right-of-way
 - d. Stormwater retention/detention areas planted in grasses which are very drought tolerant, as well as tolerant to wet soils.
 - e. Very drought tolerant grasses and low growing native plants, including grasses and forbs may be used as groundcover beyond the maximum permitted grass areas.
- (3) Maximum permitted lawn grass/sod areas for all zoning districts are referenced in Table A.

(c) Minimum Number of Trees

Minimum number of required trees per lot or per acre of net lot area (not including street trees) and maximum allowable percentage of lawn grass/sod areas within the subject property is referenced in **Table A**. More specific information may be found at subsections (1) through (12), following the Table, for more specific requirements.

Table A				
Zoning District	Number Of Trees Required			Maximum Lawn Area Percent Of Required Open Space
	Per Lot (Front Yard)	Per Lot (Back Yard)	Per Acre of Net Lot Area	
CAT 1*: Single Family Home and Townhome *				
RS-1	2	3		50%
RS-2	2	3		50%
RS-3	2	3		50%
RS-4	2	3		50%
TH	2	3		50%
CAT 2: Multifamily Residential, Hospital Districts				
RM-1			28	30%
RM-2			28	30%
RM-3			28	30%
HD			28	30%
RM-PRD			28	30%
RMPRD-2			28	30%
RO			28	30%
CAT 3: Commercial, Urban Light Industrial, Mix-Use Districts, Waterway District, Residential and Commercial Standard				
CD-1			22	20%
CD-2			22	20%
CD-3			22	20%
I-1			22	20%
MXE			22	20%
WD-1			22	20%
WD-2			22	20%
RPS-1			22	20%
RPS-2			22	20%
RPS-3			22	20%
C-PS1			22	20%
C-PS2			22	20%
C-PS3			22	20%
C-PS4			22	20%
RM-PS1			22	20%
SPE			22	20%
TC-1			22	20%
TC-2			22	20%
TC-3			22	20%
CAT 4: Institutional/ Recreational: Marine Recreational, Civic/ Government Use, Convention Center				
MR			22	20%
GU			22	20%
CCC			22	20%
GC			22	20%
* CAT 1: Single Family Home and Townhome districts up to 6000 square feet lot area. Refer to Section 126-6 (c)(4) for number of trees required for larger properties.				

- (1) **Multi-family Residential and Commercial Zones.** In Multi-family Residential, RM-1, RM-2, RM-3, RPS-1, RPS-2, RPS-3, RPS-4, RO, TC-3 or Commercial Zones, CD-1, CD-2, CD-3, C-PS-1, C-PS-2, C-PS-3, C-PS-4, I-1, MXE, TC-1, TC-2, if the minimum number of trees required cannot be planted on the ground level of the subject property, the applicant may plant 25 percent of the required trees on upper levels such as open recreation areas, roofs, and exposed decks.
- (2) **Lawn grass/sod areas** that are to be used for organized sports such as football and soccer or other similar sports or playgrounds, that are clearly identified on a landscape plan shall not be counted toward calculating maximum lawn area requirements.
- (3) **Trees shall be planted to provide shade** to residential structures of a height of 35 feet or less. At least two (2) required lot trees shall be positioned in the energy conservation zone. All exterior ground floor air conditioning units shall be shaded by trees and/or shrubs.
- (4) **The number of required trees listed in Table A for Category One (1) Residential zoning districts** are intended for properties up to 6,000 square feet lot area. Provide one (1) additional tree for each additional 1,000 square feet of lot area. If the total lot area is a fraction over the additional 1,000 square feet then, the number of required trees will be rounded up.
- (5) **Existing trees** required by law to be preserved on site and that meet the requirements of minimum tree size may be counted toward fulfilling the minimum tree requirements.
- (6) **Prohibited and controlled tree species:** Prohibited and controlled trees shall not be planted or counted toward fulfilling minimum tree requirements. Prohibited and controlled trees included within Section 24-49 (f) I & II of the Miami-Dade County Code shall be identified and listed on a tree survey and tree disposition plan prior to removals.
- (7) **No less than 30 percent of the required trees shall be native species.**
- (8) **No less than 50 percent of the required trees shall be low maintenance or drought and salt tolerant species.**
- (9) **Diversity of required tree species.** In order to avoid a mono-species appearance and to circumvent significant tree loss due to disease to a specific tree species, the number of different tree species to be planted is as follows:

- a. One (1) to Five (5) required trees: Two (2) tree species
- b. Six (6) to Ten (10) required trees: Three (3) tree species
- c. 11 to 15 required trees: Four (4) tree species
- d. 16 to 20 required trees: Five (5) tree species
- e. 21 to 30 required trees: Six (6) tree species
- f. 31 or more required trees: Seven (7) tree species

(10) Palms of a 10-foot minimum overall height and minimum caliper of three (3) inches at time of planting may be planted in addition to the tree requirement. Palms shall not count towards the minimum number of required trees.

(11) All of the trees shall be listed in the Miami-Dade County Landscape Manual, the Miami-Dade County Street Tree Master Plan, the University of Florida's Low-Maintenance Landscape Plants for South Florida list, or other list approved by the City of Miami Beach Urban Forester.

(12) Where the State, County or municipality determines that the planting of trees and other landscape material is not appropriate in the public right-of-way, the City may require that said trees and landscape material be placed on private property.

(d) Shrubs

Shrubs shall be a minimum of 18 to 24 inches high at time of planting and spaced not to exceed 30 inches on center. The minimum number shall be 12 shrubs per the number of required lot and street trees. No less than 50 percent of the required shrubs shall be native species. No one species of shrub shall constitute more than 25 percent of the shrubs required by these regulations.

Shrubs shall be planted to visually screen ground level equipment such as air conditioning units and pool equipment and shall be planted at the height of the adjacent equipment. Alternatives to shrubs screening ground level equipment include masonry walls, fences or screens that are planted with vines. The aforementioned alternatives must receive approval from the Planning Department.

(e) Large Shrubs or Small Trees

All large shrubs or small trees shall be a minimum of six (6) feet high with a minimum crown spread of four (4) feet at time of planting and 10 feet high at mature growth. The minimum number of large shrubs or small trees shall be 10 percent of the required number of shrubs for the specific project. The minimum number of large shrubs or small trees required shall be in addition to the minimum number of shrubs required. No less than 50 percent of the required large shrubs or small trees shall be native species.

Large shrubs or small trees may be planted as understory to large trees and with the required smaller shrub and groundcover plantings, in order to achieve a layering of plants.

(f) Vines

Vines shall be a minimum of 30 inches high at time of planting and may be used in conjunction with fences, screens or walls. Vines will be considered as shrubs on a one-to-one basis as part of the required number of shrubs for the specific project.

(g) Groundcover and Grasses

Groundcover and grasses shall be used in lieu of lawn grass/sod area in whole or in part shall be planted with a minimum of 75 percent coverage with 100 percent coverage occurring within three (3) months of installation.

(h) Soil and Fertilizer

All plant materials shall be planted with the soil and fertilizer specified in the City of Miami Beach Landscape Installation Specifications and Standards.

Any other soil mix or fertilizer must be submitted to the Environment and Sustainability Department prior to delivery on site.

(i) Mulch

Mulch shall be shredded pine, eucalyptus or Florimulch (100 percent melaleuca mulch). Planting areas not covered by lawn grass/sod shall be mulched to a minimum depth of three (3) inches, in order to present a finished appearance.

Cypress mulch, red colored mulch, and rubber mulch is prohibited. Any other mulch must be submitted to the Environment and Sustainability Department prior to delivery on site.

(j) Off-Site Tree Planting

If the minimum number of trees, large shrubs, and shrubs required cannot be planted on the subject property, the applicant may enter into an agreement with the City, as approved by the planning department, to plant the excess number of required trees, large shrubs, and shrubs on public property.

Sec. 126-7 Tree Trust Fund and Shrub Compliance Options

(a) If the minimum number of trees required cannot be planted on the subject property, the applicant/property owner is provided the following two options:

(1) Seek authorization from the City to install the trees off-site, on public land near or adjacent to the applicant's property; and/or

(2) Shall contribute into the City's tree trust fund the sum of \$2,500.00 for each two (2) inch caliper tree required in accordance with Table A of Section 126-6.

However, City residents with current proof of residency and homestead status under State law, if opting to utilize option two (2) shall be required to contribute the lesser amount of \$1,000.00 for each tree that is not provided, as required in accordance with Table A of Section 126-6.

(b) If the minimum number of large shrubs, small trees and shrubs required cannot be planted on the applicant's property, the applicant can either seek authorization from the City to install the large shrubs, and small trees and shrubs off-site on nearby or adjacent public land; or be required to contribute into the City's tree trust fund the sum of \$100.00 for each shrub required and \$300 for each large shrub/small tree required in Section 126-6.

(c) Annual review and adjustment:

These fees shall be evaluated and adjusted annually based on the consumer price index for all urban consumers (CPI-U).

Sec. 126-8 Deposit and Expenditure of Funds, Tree Trust Fund

(a) The City has established a Tree Trust Fund.

(1) Interest earned under the account shall be used solely for the purposes specified for funds of such account.

(b) Revenue in the Tree Trust Fund shall be utilized to implement the intent of this Chapter. Expenditures from these funds shall require City Commission approval upon receiving a recommendation from the City Manager.

(c) Such improvements that implement the intent of this Chapter may include, but are not limited to:

(1) Street tree plantings;

(2) Tree plantings in public lands; and

(3) Projects that restore and enhance the City's tree canopy.

Sec. 126-9 Plant Quality

All plant materials shall be equal to or better than "Florida No.1," as classified by "Grades and Standards for Nursery Plants" by the Division of Plant Industry, Florida Department of

Agriculture. Plant materials shall have a growth habit that is normal to the species, healthy, vigorous, free from insects, disease and injury.

Exceptions to the "Florida No. 1," classification will require approval from the City of Miami Beach Urban Forester.

Sec. 126-10 Buffers between dissimilar Land Uses

Where a non-residential zoning district abuts a residential zoning district, and where such areas will not be entirely visually screened by an intervening building or structure from the abutting property, the abutting property line shall be provided by the non-residential property if applying for new construction with a buffer consisting of the following:

- (a) **A landscaped buffer strip** shall consist of trees with understory evergreen shrubs and groundcovers within a minimum five (5) foot wide landscaped strip.
- (b) **Trees** with a minimum height of 12 feet shall be planted at a maximum average spacing of 20 feet on center.
- (c) **Evergreen shrubs** at a minimum of 24 to 36 inches high at time of planting may be used as a buffer and shall form a continuous screen between the dissimilar land uses within 1 year after planting.
- (d) **Groundcovers** shall be planted as understory to the trees and shrubs within the landscaped buffer strip.
- (e) Where site limits or constraints do not allow the five (5) foot wide landscaped buffer strip, provide a **six (6) foot high wall or approved fence** with a life expectancy of at least 10 years. Vines may be used in conjunction with fences, screens or walls. in order to soften blank wall conditions.

Sec. 126-11 Landscaped Areas in Permanent Parking Lots

At-grade parking lots. For the purpose of this Section, the term "at-grade" parking lot shall encompass commercial parking lots and non-commercial parking lots as described in Section 114-1 whether they are primary or accessory uses and that portion of a lot which is underneath the building and is at-grade which is utilized for parking. Notwithstanding the requirements in this Section in no instance shall the required landscaped area be less than 20 percent of the total area.

A landscape plan that specifies and quantifies the existing and/or proposed plant material inclusive of mature shade trees, hedge material, ground cover and in-ground irrigation shall be submitted for review and approval by the planning department, according to the following criteria:

- (a) A landscaped area with a tree shall be required at the end of all parking rows, particularly when abutting an aisle or building. Planting areas for each tree shall have a minimum width of eight (8) feet, six (6) inches, exclusive of the curb dimension, and shall be planted or covered with other landscape materials.
- (b) For each row of parking there shall be landscaped areas with trees within the first 90 linear feet, and one (1) landscaped area provided with a tree for each additional 90 linear feet. When a minimum eight (8) feet, six (6) inch clear landscape area is provided between two rows of parking, the landscape areas with trees every 90 linear feet is not required. This eight (8) feet, six (6) inch wide landscape area shall be planted with trees no greater than 20 feet on-center.
- (c) For each row of parallel parking there shall be a minimum of two (2) landscape areas, such as in a curbed bulb out, for every three (3) parking spaces. The landscape areas shall be equally spaced wherever possible. Parallel parking landscape area/tree place details such as curbed bulb outs shall be approved by the Public Works Department.
- (d) All required trees shall be of an approved shade tree variety which shall attain a minimum mature crown spread greater than 20 feet.
- (e) Landscaped areas shall require protection from vehicular encroachment. Car stops shall be placed at least two (2) feet six (6) inches from the edge of the paved area.
- (f) All parking stalls, access aisles and driveways in residential uses shall be separated from any building by a minimum of 30 inches and landscaped with shrubs, groundcover, or other suitable plant materials.
- (g) All parking lots adjacent to a right-of-way or private street shall be screened by a continuous planting layer of trees, shrubs, and groundcover.
- (h) A landscape area that is a minimum of five (5) feet in width shall be provided when parking stalls, access aisles, or driveways are located along any side or rear lot line. The landscape areas shall be planted with a continuous hedge and with trees spaced a maximum of 20 feet on center. In certain instances, a solid and continuous masonry six (6) foot high wall may be approved and used in lieu of a landscape area. The approved wall surface shall be stuccoed, painted, tiled, or textured in such a way to provide a decorative effect.
- (i) These requirements are in addition to any applicable required open space as provided in these regulations.
- (j) All landscaping that is placed on the lot shall be maintained in good condition so as to present a healthy, neat and orderly appearance. Prior to the issuance of an occupational

license for a temporary parking lot, the applicant shall submit a plan for a recurring maintenance schedule that includes, but is not limited to, cleaning the lot, clipping of hedge material, removing and replacement of dead plant material, fertilization and irrigation. This maintenance plan shall be approved by the planning department.

Sec. 126-12 Temporary and Provisional Parking Lot Standards

(a) Temporary Parking Lot: Required Landscaping.

A landscape plan that specifies and quantifies the existing and/or proposed plant material inclusive of mature shade trees, hedge material, ground cover and in-ground irrigation shall be submitted for review and approval by the planning department, according to the following criteria:

- (1) At a minimum, the plan shall indicate a five-foot wide, landscaped area bordering the surface area along a property line, street, alley or sidewalk. The areas fronting a street or alley shall be landscaped with a grouping of three palms every 15 linear feet of frontage or one canopy tree every 20 feet of frontage. All landscaped areas shall utilize St. Augustine grass or planted material acceptable to the planning department.
- (2) A hedge that is at least 36 inches (three feet) in height at the time of planting shall be installed on the entire perimeter of the lot; hedges on street or alley frontages shall not exceed 42 inches (three feet, six inches) in height at maturity. The hedge material planted on any side of the lot that abuts the lot line of another property shall be at least 48 inches (four feet) in height at time of planting and shall not exceed 60 inches (five feet) at maturity.
- (3) For temporary parking lots seeking an extension of time from the planning board, the interior landscaping of lots exceeding 55 feet in width, shall be a minimum of five percent of net interior area. One shade tree or grouping of three palms with a clear trunk of at least six (6) feet shall be provided for each 100 square feet or fraction thereof of required landscaped area. Such landscaped areas shall be located and designed in such a manner as to divide and break up the expanse of paving. Parking lots that are 55 feet wide or less shall not be required to provide interior landscaping.
- (4) Landscaped areas shall require protection from vehicular encroachment. Car stops shall be placed at least two (2) feet six (6) inches from the edge of the paved area.
- (5) Notwithstanding the dimensions of a parking lot, an in-ground irrigation system that covers 100 percent of the landscaped areas shall be required and shown on the landscape plan.
- (6) All landscaping that is placed on the lot shall be maintained in good condition so as to present a healthy, neat and orderly appearance. Prior to the issuance of an occupational license for a temporary parking lot, the applicant shall submit a plan for a recurring maintenance schedule that includes, but is not limited to, cleaning the lot, clipping of hedge material, removing and replacement of dead plant material, fertilization and irrigation. This maintenance plan shall be approved by the planning department.

(b) Provisional Parking Lot: Landscaping requirements.

- (1) A landscape plan that specifies and quantifies the proposed and/or existing plant material inclusive of mature shade trees, hedge material and ground cover shall be submitted for review and approval by the planning department.

At a minimum, the plan shall indicate a two (2) feet six (6) inches wide landscaped area bordering the surfaced area along all property lines. All landscaped areas shall utilize St. Augustine grass or planted material acceptable to the planning department. A hedge that is at least 36 inches in height at the time of planting shall be installed on the entire perimeter of the lot; the side or sides of the lot that face a street or an alley shall not exceed 42 inches in height at maturity. The hedge material planted on any side of the lot that abuts the lot line of another property shall be at least 48 inches (four feet) in height at time of planting and 60 inches (five feet) at maturity.

- (2) The areas fronting a right-of-way or an alley shall be landscaped with a grouping of three (3) palms every 20 linear feet of frontage or one canopy tree every 25 feet of frontage.
- (3) An in-ground irrigation system that covers 100 percent of the landscaped areas shall be required.
- (4) Landscaped areas shall require protection from vehicular encroachment. Car stops shall be placed at least two (2) feet six (6) inches from the edge of the paved area.
- (5) All landscaping that is placed on the lot shall be maintained in good condition so as to present a healthy, neat and orderly appearance. Prior to the issuance of an occupational license for a provisional parking lot, the applicant shall submit a plan for a recurring maintenance schedule that includes, but is not limited to cleaning the lot, clipping of hedge material, removing and replacement of dead plant material, fertilization and irrigation. This maintenance plan shall be approved by the planning department.

Sec. 126-13 Landscape Installation

Landscape installation procedures are pursuant to the City of Miami Beach Landscape Installation and Specifications Standards.

Sec. 126-14 Irrigation

All newly-planted and relocated plant material shall be watered by a **permanent irrigation system**. The following methods are encouraged to conserve water:

- (a) **Cisterns and rain barrels** are encouraged to conserve water, supplement irrigation systems, and as components of permanent irrigation systems.

(b) Brown & Grey Water Irrigation is encouraged as follows:

- (1) Brown Water Turf Irrigation:** After treatment of effluent from toilets and kitchen, recycled water may be used to irrigate the lawn grass/sod areas. Subsurface dripline irrigation may be used throughout the lawn grass/sod areas and soil moisture sensors contribute to control the watering regime.
- (2) Grey Water Irrigation:** Grey water from showers and hand basins is treated to a secondary standard and then pumped out to irrigation. Grey water may be used to irrigate trees and plants. Subsurface dripline irrigation may be used with the purple piping and similar to lawn/sod area irrigation, this system is split into zones to control the watering regime.

Sec. 126-15 Site and Landscape Lighting

- (a) Site lighting** is considered pedestrian scale lighting with luminaires/fixtures mounted on individual poles located along walkways and open spaces on a site.
- (b) Landscape lighting** is considered accent lighting for trees, palms, understory plantings, and pathways. Low voltage landscape lighting is encouraged.
- (c) This Section does not include architectural/building type lighting or sports field, vehicular or parking lot type lighting.**
- (d) Site and landscape lighting shall be controlled with timers or sensors, in order to avoid electrical use all night.**

Sec. 126-16 Landscape Maintenance

- (a) The owner and occupant is responsible** to ensure that landscaping required to be planted pursuant to this ordinance is installed in compliance with the landscape requirements; maintained as to present a healthy, vigorous, and neat appearance free from refuse and debris; and sufficiently fertilized and watered to maintain the plant material in a healthy condition.
- (b) If any tree or plant dies** which is being used to satisfy current landscape code requirements, such tree or plant shall be replaced with the same landscape material or an approved substitute.
- (c) Trees shall be pruned in the following manner:**

- (1) All cuts shall be clean, flush and at junctions, laterals or crotches. All cuts shall be made as close as possible to the trunk or parent limb, without cutting into the branch collar or leaving a protruding stub.
 - (2) Removal of dead wood, crossing branches, weak or insignificant branches, and sucker shall be accomplished simultaneously without any reduction in crown.
 - (3) Cutting of lateral branches that results in the removal of more than 1/3 of all branches on one (1) side of a tree shall only be allowed if required for hazard reduction or clearance pruning.
 - (4) Lifting of branches or tree thinning shall be designed to distribute over half of the tree mass in the lower two-thirds (2/3) of the tree.
 - (5) No more than one third (1/3) of a tree's living canopy shall be removed within a one (1) year period.
 - (6) Trees shall be pruned according to the current ANSI A300 Standards.
- (d) ~~When trees are planted within the right-of-way, the owners of land adjacent to the right-of-way areas where street trees are planted must maintain the trees, lawn grass, and plants in those areas. All street trees as well as any other landscape material in the right of way are the responsibility of the adjacent property owner to maintain up to the edge of pavement for the travel lanes or the centerline of the right of way if no travel lanes are present.~~

Sec. 126-17 Enforcement and Penalties

(a) Penalties.

- (1) A violation of Chapter 126, cited pursuant to the City of Miami Beach Landscape Ordinance, must be subject to the following fines. The special master must not waive or reduce fines set by this section. The code compliance department shall provide a 30 days cure period for violations which can be cured, such as maintenance issues, prior to issuing a citation.
 - a. If the violation is the first violation: \$500.00.
 - b. If the violation is the second violation within the preceding 12 months: \$1,000.00.
 - c. If the violation is the third violation within the preceding 12 months: \$1,500.00.
 - d. If the violation is the fourth or subsequent violation within the preceding 12 months: \$2,000.00.

(2) A violation of Section 126-5, the failure to obtain a tree work permit, must be subject to the following fines. The Special Master must not waive or reduce fines set herein:

a. If the violation is the first violation: \$1,000.00.

b. If the violation is the second violation within the preceding 12 months: \$2,000.00.

c. If the violation is the third violation within the preceding 12 months: \$3,000.00.

d. If the violation is the fourth or subsequent violation within the preceding 12 months: \$4,000.00.

(3) Enforcement. The Code Compliance Department shall enforce the provisions of this Division. This shall not preclude other law enforcement agencies or regulatory bodies from any action to assure compliance with this Division, and all applicable laws. If an enforcing officer finds a violation of this Division, the officer may issue a Notice of Violation to the violator. The Notice of Violation must inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, notice that the Violation may be appealed by requesting an administrative hearing within ten days after service of the Notice of Violation, and that failure to appeal the violation within the ten days, shall constitute an admission of the violation and a waiver of the right to a hearing.

a. No certificate of completion, occupational license, or final certificate of occupancy shall be issued unless the Planning Department has determined that the installed landscaping substantially meets the requirements as listed in the approved landscape plan(s) and as certified by the Landscape Architect of Record.

b. Modifications to the approved landscape plan(s) and approved landscape installations are not allowed and will be considered a violation of this code, unless such modifications are approved by the Planning Director or designee, or the design review or historic preservation board, as applicable.

c. The Planning Department shall have the right to inspect the lands affected by this code, at any time, and is authorized to advise the Code Compliance Department of any violations.

d. Failure to maintain landscaping according to the terms of this Chapter shall constitute a violation of this code. Also, failure to plant, preserve or maintain each individual tree and plants shall be considered to be a separate violation of this code.

(4) Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal.

a. A violator who has been served with a Notice of Violation must elect to either:

1. Pay the civil fine in the manner indicated on the Notice of Violation; or

2. Request an administrative hearing before a special master to appeal the Notice of Violation, which must be requested within 10 days of the issuance of the notice of violation.
- b. The procedures for appeal by administrative hearing of the Notice of Violation shall be as set forth in Sections 30-72 and 30-73 of the City code.
 - c. If the named violator, after issuance of the Notice of Violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special master, the special master may be informed of such failure by report from the officer. Failure of the named violator to appeal the decision of the officer within the prescribed time period must constitute a waiver of the violator's right to an administrative hearing before the special master, and must be treated as an admission of the violation, which fines and penalties to be assessed accordingly.
 - d. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes.
 - e. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.
 - f. The Special Master shall be prohibited from hearing the merits of the Notice of Violation or the consideration of the timeliness of a request for an administrative hearing, if the violator has failed to request the administrative hearing within ten (10) days of the issuance of the Notice of Violation.
 - g. The Special Master shall not have discretion to alter the penalties prescribed in Subsections 126-17 (a) and (b) herein.
- (b) Enhanced penalties. The following enhanced penalties shall be imposed, in addition to any mandatory fines set forth in subsections (a)(1) and (a)(2) above, for violations of this Chapter:
- (1) Enhanced penalties for Subsection (a)(1):
 - a. If the offense is a fourth offense within the preceding 12 month period of time, in addition to the fine set forth in subsection (a)(1), the property owner, landscape company or any affiliates shall be prohibited from receiving a landscaping approval for a three (3) month period of time.
 - b. If the offense is a fifth offense within six (6) months following the fourth offense, in addition to any fine set forth in subsection (a)(1), the property owner, landscape company or any affiliates shall be prohibited from receiving a landscape approval for a six (6) month period of time. The property owner, landscape company or permittee shall be deemed a habitual offender.

- c. The Planning Department may decline to issue future landscape approval to such person, individual, entity, business, company or any affiliates that have been deemed habitual offenders pursuant to this section for a period of up to one year.
- d. The Planning Director may withhold approval of a final building inspection if landscape installations do not comply with the approved landscape plans and details.

(2) Enhanced penalties for Subsection (a)(2):

- a. The tree work activity must be immediately terminated, upon confirming a violation has occurred, by the Miami Beach Police Department and the Public Works Department.
- b. Violations for subsection (a) shall be issued to the property owner and the tree services company, who shall be joint and severally liable for the violation.
- c. The Public Works Department shall decline to issue a Tree Work Permit to such person, individual, entity, business, company or any affiliates that have violated this Section within a three (3) month period. The prohibition from receiving the Tree Work Permit shall be for a three (3) month period of time.

~~Sec. 126-1. Purpose.~~

~~These regulations are designed to result in the placement of landscape materials in such manner as to improve highly visible tourist, commercial and residential areas of the City, to protect and preserve landscape features, and to enhance the value of property.~~

~~Sec. 126-2. Scope of review.~~

~~All elements of landscaping shall be selected for their functional value, aesthetic appeal and consistency with the comprehensive plan and neighborhood plans. Landscape plans shall be in compliance with the following criteria:~~

- ~~(1) Provision of shade and coolness;~~
- ~~(2) Enhancement of architectural features;~~
- ~~(3) Achievement of beauty and pride in the community;~~
- ~~(4) Enhancement of the tropical image of the community;~~
- ~~(5) Separation of incompatible uses or obtrusive elements;~~
- ~~(6) Amelioration of the impact of noise and light;~~
- ~~(7) Integration of any structures with adjacent body of water; and~~
- ~~(8) Preservation and protection of existing plant materials and energy conservation.~~

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~~Sec. 126-3. Applicability and exemptions.~~

- ~~(a) Applicability. All building permits for new construction, substantial rehabilitation or additions to existing buildings when located in areas designated for design review pursuant to Section 118-252, projects that are reviewed under the conditional use or variance procedures and property in the redevelopment area. The planning and zoning director shall conduct all landscape reviews pursuant to the regulations set forth in this Chapter and consistent with the design review regulations as set forth in Chapter 118, article VI. The landscape review shall include but not be limited to parking decks, all required yards, decks associated with recreational facilities, or any open space areas that are visible to the public.~~
- ~~(b) Permits for demolition or wrecking. Permits for demolition or wrecking shall require a landscape survey to insure that valuable existing trees are not damaged or destroyed; however, the submission of the survey may be waived by the planning and zoning director. In the event a survey is waived, the applicant shall provide a detailed landscape narrative. Trees that have a trunk diameter of eight or more inches shall not be removed without the approval of the planning and zoning director.~~
- ~~(c) Exemptions. Exemptions to these regulations include all of the following, provided no new construction and/or additions to existing buildings or removal or damage to existing vegetation are required:
 - ~~(1) All permits for plumbing, heating, air conditioning, elevators, fire alarms, and extinguishing equipment, and other mechanical and electrical equipment.~~
 - ~~(2) Any permit necessary for the compliance with a lawful order of the building official, fire marshal, or public works director including:
 - ~~a. Any permit necessary for the immediate public health or safety.~~
 - ~~b. All permits for interior alterations and repairs.~~~~~~

~~Sec. 126-4. Elements of the landscape plan.~~

~~Landscape elements shall include but not be limited to:~~

- ~~(1) Palms, shade trees, shrubs, ground cover, lawn areas, walls, wood fencing, sculptures, water features, irrigation system, outdoor furniture such as benches and outdoor lighting and paving materials such as concrete pavers, wood decking, and unit pavers.~~
- ~~(2) Any nonliving durable material commonly used in landscaping but not limited to rocks, pebbles or sand.~~

~~Sec. 126-5. Landscape plan submission.~~

- ~~(a) Prior to the issuance of a building permit, the planning, design and historic preservation division shall approve a landscape plan which includes the following:
 - ~~(1) Location of all existing vegetation by name and size, trees to remain, to be relocated either on or off site, or to be removed;~~
 - ~~(2) Location of all proposed landscape elements including botanical names, common names, quantities, height, spread, spacing and grades;~~
 - ~~(3) All paving materials;~~~~

- ~~(4) All site furnishings, such as benches, and planters;~~
- ~~(5) Mulching, fertilizing, staking, planting bed preparation;~~
- ~~(6) The existence of irrigation system, if required; and~~
- ~~(7) Existing and proposed lighting with fixture location, sizes, heights and cut sheets.~~
- ~~(b) No certificate of completion, occupational license, or certificate of occupancy shall be issued unless the planning, design and historic preservation division has determined that the installed landscaping substantially meets the requirements as listed in the landscape plan.~~

~~Sec. 126-6. Landscape criteria.~~

~~When the site is located in an area designated for landscape review, the following regulations shall be used in evaluating the plans:~~

- ~~(1) All districts except I-1. In all districts except I-1 the following shall apply:~~
 - ~~a. Surface/ground treatment. One canopy tree or grouping of three palms shall be provided for every 25 linear feet of frontage in a required yard abutting a public right-of-way. Where a driveway crosses a landscaped easement and a curb cut is provided, the driveway shall be paved with a hard surface material such as concrete, asphalt, or decorative unit pavers and shall have a clearly defined edge between paving and landscaped easement.~~

~~Any plantings located in the right of way including but not limited to trees, shrubs, ground cover, and sod shall be maintained by the abutting property owner and approved by the planning, design and historic preservation division.~~
 - ~~b. Hedges.~~
 - ~~1. Required front yards. In required front yards hedges, ground cover, vines, and sod may be placed in the required yards. Hedges or other living barriers not associated with a fence or wall shall have a maximum height of five feet. Hedges or other living barriers provided in concert with a fence or wall shall not exceed a height of five feet or the height of the permitted fence or wall, whichever is greater.~~
 - ~~2. Height limitation generally; maintenance. There is no height limitation. Hedge material must be kept neat, evenly trimmed and properly maintained. For corner visibility regulations see Section 142-1135.~~
- ~~(2) At-grade parking lots. For the purpose of this Section, the term "at-grade" parking lot shall encompass commercial parking lots and noncommercial parking lots as described in Section 114-1 whether they are primary or accessory uses and that portion of a lot which is underneath the building and is at grade which is utilized for parking. Notwithstanding the requirements in this Section in no instance shall the required landscaped area be less than 20 percent of the total area, except for temporary parking lots which are subject to Section 130-68, and lots which are 55 feet wide or less.~~
 - ~~a. Required landscaping adjacent to the public right-of-way shall be landscaped as follows:~~

- ~~1. Landscaping shall include one tree or grouping of three palms for each 30 linear feet or any fraction thereof. Such trees shall be located between the abutting right-of-way and parking lot area and shall be planted in a planting area of at least 25 square feet with a minimum dimension of five feet. In addition, a hedge, wall or other landscape barrier not to exceed 3 1/2 feet at maturity and at least 2 1/2 feet in height at the time of planting, shall be placed only along the right of way. If such barrier is of nonliving material, one shrub or vine shall be planted abutting the barrier for each ten linear feet. Such shrubs or vines shall only be planted between the property line and barrier. The remainder of the required landscaped areas shall be landscaped with grass, ground cover, or other landscape treatment excluding paving.~~
- ~~2. Any plantings located in the right-of-way including, but not limited to, trees, shrubs, ground cover, and sod shall be maintained by the abutting property owner.~~
- ~~3. Necessary access ways from the street through all such landscaping shall be permitted to service the parking lot and such access ways may be subtracted from the linear dimension used to determine the number of trees required.~~
- ~~b. Perimeter parking adjacent to side and rear property lines shall be landscaped as follows. The perimeter of parking areas abutting residential or commercial properties shall provide, at a minimum, a five feet landscaped strip, except when abutting an alley. The perimeter of the parking area shall also be screened with an opaque fence, wall or continuous hedge or other durable landscape barrier. If plant material is used as the screening device, it shall not be less than a height of 30 inches at the time of planting. All landscape areas along the perimeter of the parking areas abutting residential or commercial properties shall provide one tree or cluster of three palms for every 40 linear feet of property relating to an abutting property.~~
- ~~c. Parking area, interior landscaping shall be as follows. Parking areas shall provide a minimum of five percent of net interior area as landscaping. One tree or grouping of three palms with a clear trunk of at least six feet shall be provided for each 100 square feet or fraction thereof of required landscaped area. Such landscaped areas shall be located and designed in such a manner as to divide and break up the expanse of paving. In instances where the strict application of this subsection will seriously limit the function of the parking area, the required landscaping may be located near the perimeter of the paved area. Such required interior landscaping shall be in addition to the perimeter landscaping requirements. Landscaped area shall require protection from vehicular encroachment. Car stops shall be placed at least 2 1/2 feet from the edge of the paved area. The minimum and maximum paved area designated as the required parking space shall be as stated in Chapter 130, article III. In no instance shall the required landscaped area be included within the required parking space area.~~
- ~~d. Notwithstanding the requirements in this Chapter, in no instance shall the required landscaped area be less than 20 percent of the total area of the parking lot.~~
- ~~e. For parking lots 55 feet wide or less, landscaping shall consist of a perimeter wall or dense hedge of at least three and one-half feet in height, one shade tree or three palms per 30 linear feet adjacent to a public right-of-way, one palm per 30 linear feet along the side property lines, and one shade tree or three palms per 30 linear feet along the rear property line except when abutting an alley. An in-ground~~

~~irrigation system that covers 100 percent of the landscaped areas shall be provided.~~

- ~~(3) Other vehicular use areas. Landscape requirements of vehicular use areas, such as service stations, are subject to regulations as stated in subsection 126-6(2).~~
- ~~(4) Parking garages. Parking garage requirements for landscaping shall comply with regulations as stated in subsection 126-6(1).~~
- ~~(5) Dumpsters. Dumpsters shall not be located within any front yard or required side or rear yards. They shall be within an enclosed area.~~
- ~~(6) Temporary parking lot standards. Landscape standards and setback requirements are pursuant to Section 130-68.~~
- ~~(7) Appeals. All appeals regarding the interpretation of the landscape ordinance shall be to the board of adjustment.~~

SECTION 2. That Chapter 130, entitled "Off-Street Parking," Article III, entitled "Design Standards," of the Code of the City of Miami Beach is hereby amended as follows:

Sec. 130-70. - Temporary parking lot standards.

- (1) Temporary commercial or noncommercial parking lots may be operated in the MR marine district, GU government use district, MXE mixed use entertainment district, I-1 urban light industrial district or in any commercial district. These lots may be operated independent of a primary use. Temporary, noncommercial lots may be located in the R-PS1—4 and in any multifamily residential district or within the architectural district as defined in Section 114-1. One sign per street frontage is permitted. The maximum size of each sign shall be five square feet per 50 feet of street frontage. This sign shall also include copy that indicates the name of the operator, the phone number of operator to report complaints, and who can use the parking facility; i.e., whether it is open to the general public, private, valet or self-parking.

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- (8) Landscaping requirements shall be pursuant to Section 126-12 of the Land Development Regulations. ~~A landscape plan that specifies and quantifies the existing and/or proposed plant material inclusive of mature shade trees, hedge material, ground cover and in-ground irrigation shall be submitted for review and approval by the planning department, according to the following criteria:~~

- ~~a. At a minimum, the plan shall indicate a five foot wide, landscaped area bordering the surface area along a property line, street, alley or sidewalk. The areas fronting a street or alley shall be landscaped with a grouping of three palms every 15 linear feet of frontage or one canopy tree every 20 feet of frontage. All landscaped areas shall utilize St. Augustine grass or planted material acceptable to the planning department.~~
- ~~b. A hedge that is at least 36 inches in height at the time of planting shall be installed on the entire perimeter of the lot; hedges on street or alley frontages shall not exceed 42 inches in height at maturity. The hedge material planted on any side of the lot that abuts the lot line of another property shall be at least 48 inches (four feet) in height at time of planting and shall not exceed 60 inches (five feet) at maturity.~~

- ~~c. For temporary parking lots seeking an extension of time from the planning board, the interior landscaping of lots exceeding 55 feet in width, shall be a minimum of five percent of net interior area. One shade tree or grouping of three palms with a clear trunk of at least six feet shall be provided for each 100 square feet or fraction thereof of required landscaped area. Such landscaped areas shall be located and designed in such a manner as to divide and break up the expanse of paving. Parking lots that are 55 feet wide or less shall not be required to provide interior landscaping.~~
- ~~d. Landscaped areas shall require protection from vehicular encroachment. Car stops shall be placed at least 2½ feet from the edge of the paved area.~~
- ~~e. Notwithstanding the dimensions of a parking lot, an in-ground irrigation system that covers 100 percent of the landscaped areas shall be required and shown on the landscape plan.~~
- ~~f. All landscaping that is placed on the lot shall be maintained in good condition so as to present a healthy, neat and orderly appearance. Prior to the issuance of an occupational license for a temporary parking lot, the applicant shall submit a plan for a recurring maintenance schedule that includes, but is not limited to, cleaning the lot, clipping of hedge material, removing and replacement of dead plant material, fertilization and irrigation. This maintenance plan shall be approved by the planning department.~~

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Sec. 130-71. - Provisional parking lot standards.

When permitted, the following standards are established for provisional parking lots:

- (1) Provisional commercial or noncommercial parking lots may be operated in the CD1-3 (commercial, low to high intensity) districts, CPS-1 and 2 (commercial performance standards districts), I-1 (urban light industrial) district, and MXE (mixed use entertainment) district. These lots may be operated independent of a primary use. One sign per street frontage is permitted. The maximum size of each sign shall be five square feet per 50 feet of street frontage, not to exceed 20 square feet. This sign shall also include copy that indicates the name of the operator, the phone number of operator to report complaints, the phone number for Code Compliance, and who can use the parking facility; i.e., whether it is open to the general public, private, valet or self-parking.

~~*~~ ~~*~~ ~~*~~

- (6) Landscaping requirements shall be pursuant to Section 126-12 of the Land Development Regulations.:-

- ~~a. A landscape plan that specifies and quantifies the proposed and/or existing plant material inclusive of mature shade trees, hedge material and ground cover shall be submitted for review and approval by the planning department.~~

~~At a minimum, the plan shall indicate a two feet six inches (2½ feet) wide), landscaped area bordering the surfaced area along all property lines. All landscaped areas shall utilize St. Augustine grass or planted material acceptable to the planning department. A hedge that is at least 36 inches in height at the time of planting shall be installed on the entire perimeter of the lot; the side or sides of the lot that face a street or an alley shall not exceed 42 inches in height at maturity. The hedge material planted on any side of the lot that abuts the lot line of~~

~~another property shall be at least 48 inches (four feet) in height at time of planting and 60 inches (five feet) at maturity.~~

- ~~b. The areas fronting a right-of-way or an alley shall be landscaped with a grouping of three palms every 20 linear feet of frontage or one canopy tree every 25 feet of frontage.~~
- ~~c. An in-ground irrigation system that covers 100 percent of the landscaped areas shall be required.~~
- ~~d. All landscaping that is placed on the lot shall be maintained in good condition so as to present a healthy, neat and orderly appearance. Prior to the issuance of an occupational license for a provisional parking lot, the applicant shall submit a plan for a recurring maintenance schedule that includes, but is not limited to cleaning the lot, clipping of hedge material, removing and replacement of dead plant material, fertilization and irrigation. This maintenance plan shall be approved by the planning department.~~

SECTION 3. APPLICABILITY.

This Ordinance shall not apply to projects that have an approved Order from the Board of Adjustment, Design Review Board, Historic Preservation Board, or Planning Board issued prior to the effective date of this Ordinance. Developments that have submitted a complete application for hearing before the Board of Adjustment, Design Review Board, Historic Preservation Board, or Planning Board, or that have been issued a building permit process number prior to the date of second reading of this Ordinance.

SECTION 4. REPEALER.

All ordinances or parts of ordinances and all Section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 5. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or reentered to accomplish such intention; and that the word "ordinance" may be changed to "Section" or other appropriate word.

SECTION 6. SEVERABILITY.

If any Section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 7. EFFECTIVE DATE.

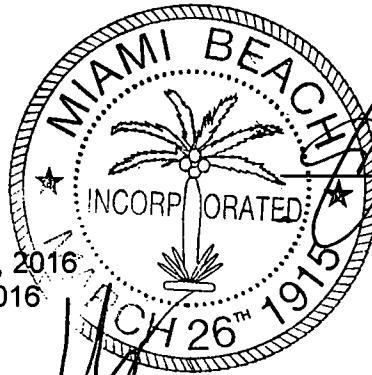
This Ordinance shall take effect ten (10) days following adoption.

PASSED and ADOPTED this 19 day of October, 2016

MAYOR

ATTEST:

7/1 10/27/16
CITY CLERK



APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

John A. Sant'Anna 9/16/16
City Attorney Date

First Reading: September 14, 2016
Second Reading: October 19, 2016

Verified by: Thomas R. Mooney
Thomas R. Mooney, AICP
Planning Director

Underscore denotes new language
~~Strikethrough~~ denotes deleted language

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MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Jimmy L. Morales, City Manager
DATE: October 19, 2016

10:20 a.m. Second Reading Public Hearing

SUBJECT: CHAPTER 126 - LANDSCAPE ORDINANCE:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS (LDR'S) OF THE CITY CODE, BY AMENDING CHAPTER 126, "LANDSCAPING," BY EXPANDING THE APPLICABILITY, SUBMITTAL REQUIREMENTS FOR LANDSCAPE PLANS, EXPANDING MINIMUM LANDSCAPE STANDARDS, DETAILING MAINTENANCE REQUIREMENTS FOR REQUIRED LANDSCAPING, AND PROVIDING FOR THE DEPOSIT OF FUNDS TO THE CITY OF MIAMI BEACH TREE PRESERVATION TRUST FUND FOR NOT COMPLYING WITH LANDSCAPE REQUIREMENTS; BY AMENDING CHAPTER 130, ENTITLED "OFF-STREET PARKING," ARTICLE III, ENTITLED "DESIGN STANDARDS," TO INCORPORATE LANDSCAPE STANDARDS FOR TEMPORARY AND PROVISIONAL PARKING LOTS INTO THE CITY OF MIAMI BEACH LANDSCAPE ORDINANCE; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the City Commission adopt the Ordinance.

ANALYSIS

On June 10, 2015, at the request of Commissioner Malakoff, the City Commission referred the subject Ordinance amendment (Item C4I) to the Land Use and Development Committee. Additionally, the matter was referred to the Planning Board.

On June 17, 2015, the Land Use and Development Committee discussed the item and continued it to the July 29, 2015 meeting. The Committee directed the Administration to prepare an ordinance amendment to Chapter 126 and to Chapter 46, so that the two chapters of the Code are consistent.

On July 29, 2015, the Land Use and Development Committee requested that recommendations from the Greenspace/Tree Advocacy Group (GTAG) be incorporated into the Ordinance and continued the item to the September 9, 2015 meeting. On September 9, 2015, the Land Use and Development Committee continued the item to the November 18, 2015 meeting. The November 18, 2015 and December 2, 2015 meetings of the Land Use and Development

Committee were cancelled; therefore, the item was continued to the January 20, 2016 meeting. On January 20, 2016, the Land Use and Development Committee discussed the proposed ordinance and continued it to the February 17, 2016 meeting.

On February 17, 2016, the Land Use and Development Committee recommended that the ordinance be sent to the Planning Board with a favorable recommendation, including the current requirement that homeowners maintain swale trees. On March 9, 2016, the City Commission referred the subject ordinance amendment (Item C4B) to the Planning Board.

On May 11, 2016, the City Commission opened and continued First Reading of the item to July 13, 2016 in order to allow for the review of the item for consistency with Miami-Dade County's minimum landscape requirements. The item was moved from the July 13, 2016 agenda to September 14, 2016, in order to address an issue with the Title of the legislation.

According to the U.S. Department of Agriculture (USDA) Forest Service trees are a valuable resource worth three times their initial investment. They reduce carbon dioxide and air pollutants, reduce energy costs by providing shade, and increase the frequency of shopping and amount spent in commercial areas by creating a more comfortable atmosphere, and increase property values, among other benefits.

Chapter 126 of the Land Development Regulations (LDR's) provides the City's existing minimum landscape standards for private properties. The requirements of the landscape regulations are applicable to all building permits for new construction, substantial rehabilitation or additions to existing buildings when located in areas designated for design review, conditional use or variance procedures and property in the redevelopment area. Additionally, permits for demolition require a landscape survey to insure that valuable existing trees are not damaged or destroyed. Trees that have a trunk diameter of eight or more inches may not be removed without the approval of the Environment and Sustainability Division, Urban Forester.

These standards are generally consistent with the minimum landscape standards of Miami-Dade County. However, these standards are currently insufficient to achieve many of the benefits described by the USDA and desired by the City.

As the need to protect existing tree species has become more apparent, revisions to Chapter 126 of the LDR's are in order, to compliment and be consistent with the requirements of Chapter 46, Article II of the City Code pertaining to the care and maintenance of trees and plants. The attached ordinances propose updates to Chapter 126 of the LDR's, as well as to Chapter 46 of the City Code, to be consistent with established policy goals of enhanced landscaping and the preservation of existing tree canopy in the City. These modifications will complement the City's other efforts in tree protection, such as assuming the responsibility for tree removal permits from Miami-Dade County, which occurred on June 15, 2015. The analysis that follows details the proposed modifications.

City of Miami Beach Landscape Ordinance

Staff has developed a draft landscape ordinance that establishes minimum landscape standards utilizing best practices for South Florida in order to accomplish the following:

- Enhance, improve, and maintain the quality of landscape.
- Prevent the destruction of the City's existing tree canopy and promote its expansion.

- Improve the aesthetic appearance of new development and protecting designated historic landscapes.
- Promote sound landscaping principles through the use of drought and salt tolerant plant species and also to promote planting the right tree and plant in the right place.
- Promote the use of trees and shrubs for energy conservation, thereby helping to offset global warming and local heat island effects.

Submittal Requirements

The proposed ordinance establishes that the following types of plans must be submitted with building permit applications for new construction, substantial rehabilitation or additions to existing buildings, as well as applications submitted for land use board approval:

- Vegetation Survey
- Tree Disposition Plan
- Landscape Plan
- Irrigation Plan
- Site and Landscape Lighting Plan

The ordinance requires that the vegetation survey be prepared by a professional land surveyor licensed to practice in the state of Florida. It also requires that the landscape plans be prepared by a landscape architect licensed to practice in the State of Florida. In addition, it requires that irrigation plans and the site and landscape lighting plans be prepared by a landscape architect or other persons authorized by Chapter 481, Florida statutes.

The proposal also requires that no permit for development activity be issued unless any necessary tree removal permits have been obtained or it has been determined that no tree removal permit is required pursuant to the tree preservation and protection criteria described in Chapter 46 of the City Code.

Minimum Standards

The proposed ordinance establishes minimum standards for the following criteria:

- Trees
- Lawn Grass/Sod Area
- Minimum Number of Trees
- Large Shrubs or Small Trees
- Shrubs
- Vines
- Groundcover and Grasses
- Soil
- Fertilizer
- Mulch
- Plant Quality
- Buffers between dissimilar Land Uses
- Landscaped Areas in Permanent Parking Lots
- Temporary and Provisional Parking Lot Standards
- Landscape Installation
- Irrigation
- Landscape Maintenance

The existing landscaping standards generally require that there be one canopy tree or grouping of three palms for every 25 linear feet of frontage in required yards. The proposed ordinance includes more specific criteria as to the dimensions, spacing, and types of trees. A table indicates the number of trees per lot in each of the various zoning districts throughout the City. In an effort to improve the City's canopy and increase shade, the proposed ordinance indicates that, although permitted, palm trees do not count towards meeting the minimum tree canopy requirements.

The proposed ordinance also establishes a Tree Trust Fund. Should an applicant not be able to accommodate the required landscaping onsite or offsite in a public space approved by the City, the applicant has the option of paying into the Tree Trust. The revenue in the fund can be used for projects such as street tree plantings, tree plantings in public lands, and projects that restore and enhance the City's tree canopy.

The standards for soil, fertilizer, mulch, plant quality, installation, irrigation, and maintenance are intended to ensure that landscaping that is planted within the City survives and thrive. It requires that if a tree that is used to satisfy the minimum requirements of the code dies, that it be replaced with the same type of landscape material or an approved substitute.

In an effort to improve sustainability and reduce groundwater withdrawals, the standards encourage the use of treated brown and grey water for the use of irrigation in order to conserve potable water. The ordinance proposes that guides and standards be created by the City in order to encourage and regulate them.

Modifications to Chapter 46 are also proposed, as a separate ordinance, in order to be consistent with the revisions to Chapter 126. The modifications include reducing the minimum review caliper from 12 inches to six inches.

PLANNING BOARD REVIEW

On April 19, 2016, the Planning Board (by a 7-0 vote) transmitted the proposed Ordinance with modifications to the City Commission with a favorable recommendation. The modifications are described below:

- Section 126-2: Provide a definition for "Net Lot Area".
- Section 126-6 (c)(1): Add "roofs" to the list of upper level areas.
- Section 126-10: Clarify that buffers are to be provided "by the non- residential property if applying for new construction".
- Section 126-11: Remove requirements (a) and (b); clarify the requirements for bulb outs in parallel parking rows; and incorporate standards (a), (a)(4) and (a)(6) from Temporary Parking Lot standards.
- Section 126-12 (b): Incorporate standard (a)(4) from Temporary Parking Lot Standards.
- Section 126-17: Allow for a 30-day cure period.
- Incorporate an applicability clause for projects that have applied for a Land Use Board hearing or have a building permit process number as of the date of second reading of the ordinance.

UPDATE

At the request of the City Commission, the Public Works Department has taken an inventory of

the number and geographic distribution of the small, medium, and large trees and palms in every right-of-way throughout the City. Based upon this inventory, and the necessary pruning/maintenance frequencies for each type of tree/palm, it was determined that a hybrid (contractor/in-house staff,) approach will serve the City best as it pertains to maintenance. In order to properly and routinely maintain the close to ten thousand trees and palms in the City year-round to proper arboricultural standards, the following costs would be incurred:

- Approximately \$1,300,000 in tree specialist contractor fees.
- Approximately \$236,000 in salaries and benefits for the addition of two licensed professional tree trimmers to be added to Greenspace Mgt.'s existing Tree Crew.

The total estimated cost of this effort would be approximately \$1,536,000.00 annually.

The Administration has sought a review of the proposed Landscape Ordinance by Miami-Dade County to ensure consistency with the County's minimum landscape requirements that apply to municipalities. On August 11, 2016, the Miami-Dade County Department of Regulatory and Economic Resources confirmed that the proposed Ordinance was consistent with the County's minimum landscape standards.

Based upon further review of the proposal by the Public Works Department, Environment and Sustainability Department, and Planning Department, an additional six modifications and clarifications are recommended, which are included in the attached Ordinance amending Chapter 126:

1. Modify the title to reference that funds generated through the Landscape Ordinance will be deposited into the existing Tree Preservation Trust Fund.
2. Modify section 126-2 to add a definition of Tree Trust Fund, so that funds generated through this ordinance are deposited into the existing Tree Preservation Trust Fund established in Chapter 46 of the City Code.
3. Modify section 126-6 to include requirements for street trees to ensure that they are consistent with the requirements of the Association of State Highway and Transportation Officials (AASHTO) Roadside Design Guide, and to clarify that if required street trees or trees under power lines cannot be planted as a result of requirements from the Public Works Department, that trees be planted elsewhere on the site or that the applicant utilize the Tree and Shrub Compliance Options.
4. Modify the title of section 126-7 to clarify that it establishes options for compliance with minimum tree and shrub requirements.
5. Remove section 126-8, since there is a clarification proposed requiring that funds generated through the Landscape Ordinance will be deposited into the existing Tree Preservation Trust Fund.
6. Remove sections 126-17 (a)(2) and (b)(2), since violations for failure to obtain a tree work permit are established in Section 46-67 of the City Code, therefore the fines for such violations should not be repeated in Chapter 126.

The subject Ordinance was approved at First Reading on September 14, 2016, with no changes.

CONCLUSION

The Administration recommends that the City Commission adopt the Ordinance.

FINANCIAL INFORMATION

In accordance with Charter Section 5.02, which requires that the "City of Miami Beach shall consider the long term economic impact (at least 5 years) of proposed legislative actions," this shall confirm that the City Administration City Administration evaluated the long term economic impact (at least 5 years) of this proposed legislative action. The proposed Ordinance is not expected to have a negative fiscal impact upon the City.

Legislative Tracking

Planning

Sponsor

Commissioner Joy Malakoff

ATTACHMENTS:

Description

- First Reading Ordinance - Form Approved