

## ORDINANCE 2069

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, AMENDING ARTICLE V, “RESOURCE PROTECTION STANDARDS,” OF THE APOPKA LAND DEVELOPMENT CODE OF THE CITY OF APOPKA, THROUGH THE AMENDMENT OF THE FOLLOWING SECTIONS: SECTION 5.01.06, “APPLICATIONS AND PROCEDURES”; SECTION 5.01.07, “TREE REPLACEMENT”; SECTION 5.01.08, “REQUIRED LANDSCAPING”; SECTION 5.01.09, “APPROVED PLANTS”; SECTION 5.01.10, “IRRIGATION”; AND SECTION 5.01.12, “ADMINISTRATION AND ENFORCEMENT”; AMENDING ARTICLE I, SECTION 1.08.13 “DEFINITIONS,” OF THE APOPKA LAND DEVELOPMENT CODE; AND PROVIDING FOR DIRECTION TO THE CITY CLERK, FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, §§166.048 and 373.185, Florida Statutes, provide that local governments should consider the adoption of water-efficient landscape standards; and

**WHEREAS**, the Florida Watershed Restoration Act of 1999 and the National Pollutant Discharge Elimination System (NPDES) municipal stormwater permitting program require local governments to reduce pollutant loads discharged from stormwater management systems to better protect and restore surface and ground waters; and

**WHEREAS**, Article V, Land Development Code of the City of Apopka sets minimum standards for environmental protection; and

**WHEREAS**, the City of Apopka recognizes the need for further protection of water as a natural resource through Water-Wise irrigation practices and the application of Florida Friendly landscape practices; and

**WHEREAS**, Water-Wise irrigation and Florida Friendly landscapes promote water conservation by efficient watering methods that generally result in a long-term reduction of irrigation, fertilizer, pesticide requirements, costs, energy, and maintenance; and

**WHEREAS**, more than one-half of the public water supply in Florida is devoted to landscape irrigation, and given Florida’s limited water resources, we accept the recommendations of the Committee on Landscape Irrigation and Florida-Friendly Design Standards, specifically recommending that irrigation systems use the lowest quality water feasible and landscape design be such to conserve water resources; and

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF THE CITY OF APOPKA, FLORIDA**, as follows:

### **SECTION I. Amendment of Section 5.01.06**

That Section 5.01.06, “Applications,” of Article V, of Part III, of the Code of Ordinances of the City of Apopka, Land Development Code, is hereby amended and replaced in its entirety as follows

(Note: Strike-throughs and underlines represent deletions and additions, respectively):

**5.01.06. Applications and procedures.**

A. Arbor Permitting: Permits for land clearing or removal, relocation, alteration, or replacement of trees covered herein shall be obtained by making application to the city. All applications shall be accompanied by such permit fee in place at the time of application ~~as determined by city council~~. Each application shall include a written statement indicating the reasons for the requested action. It is the responsibility of the applicant to include sufficient information for the city to evaluate the request. The city review may require a field inspection of the site.

1. ~~A.~~ Tree removal.

a. ~~1.~~ No arbor permit shall be issued for removal of a specimen or historic tree unless one of the following conditions exist:

(1) Tree is located in a buildable area, yard area, or street right-of-way where a structure or improvement is to be placed and for which an arbor permit application has been filed, and it unreasonably restricts the permitted use of the property.

(2) Tree is diseased, injured, or in danger of falling too close to existing or proposed structures so as to endanger such structures, interferes with utility services, or creates unsafe vision clearance or affects the safety, health, and welfare of the public.

(3) Tree is of a species that is listed as a nuisance plant under this code.

b. ~~2.~~ All trees that are removed or destroyed shall be relocated or replaced in accordance with tree replacement section of this code.

2.~~B.~~ Tree trimming or pruning.

a.~~1.~~ Any person, company, partnership, corporation, or service that administers tree maintenance practices within the city shall adhere to the National Arborist Association Standards which are hereby adopted by reference into this code.

b.~~2.~~ All protected trees within the city, other than those delineated as nuisance trees, shall be trimmed in accordance with the provisions of the Tree Care Industry Association, formerly known as the National Arborist Association. ~~Standards~~.

3.~~C.~~ Land clearing and development plans.

~~a.~~ No arbor permit for land clearing shall be issued until site plans for trees and protection of native vegetation have been approved by the city. Issuance of an arbor permit for land clearing is limited to removal of understory vegetation and nonprotected trees. Removal of any protected trees during land clearing operations shall require specific approval on the arbor permit. If the scope of work is limited to removal of understory vegetation to improve intersection sight distance or to provide for routine lot maintenance then the site requirement may be waived by the city.

~~(1)a.~~ In the case of development requiring site plan approval, development review committee evaluation shall be included in the recommendation to city council and approval of the final development plan shall constitute approval to issue the arbor permit.

~~(2)b.~~ A tree survey shall be required for any nonresidential development or residential subdivision requiring development plans. The applicant shall provide the following information as part of the tree survey:

~~(a)(1)~~ Aerial photograph (minimum one inch equals 200 feet) or drawing indicating utility lines, boundary lines, dimensions, surrounding streets, and proposed development improvements.

~~(b)(2)~~ Common and botanical name of major tree groups shown.

~~(c)(3)~~ Estimated height and DBH of major tree groups shown.

~~(d)(4)~~ Each DBH, location, botanical and common name of any protected tree stands, individuals or specimen trees.

~~(e)(5)~~ Estimated DBH of trees less than six inches DBH and percentage of those trees to be removed.

~~(f)(6)~~ Plans on how those remaining trees shall be protected and type of barriers to be used.

~~(g)(7)~~ Proposed changes, if any, in site elevation grades and major contours of the land will be required on landscape plans. Care will be taken not to change original grade around those protected or remaining trees.

~~(h)(8)~~ All trees dead, diseased, or dying and for which restoration to sound condition is not practical or in instances when a disease [exists] which can be expected to

be transmitted to other trees, or to endanger the tree's health or to the public as determined by the city can be excluded from the tree survey.

- (3) The following items must be clearly listed on the tree survey or landscape plan:
- (a) Total Tree Inches on Current, Non-Altered Site
  - (b) Total Tree Inches to be Removed
  - (c) Total Tree Inches to be Replaced
  - (d) Maximum Tree Stock and Calculations
  - (e) Quantity of Specimen Trees (24" or Greater) Being Removed
  - (f) Site Clearing Area in Square Feet and Acres

~~b.2.~~ In determining required relocation or replacement of trees, landscaping and irrigation, the city shall consider the needs of the intended use of the property along with an evaluation of the following conditions:

- ~~(1)a.~~ Preservation of existing trees and native vegetation.
- ~~(2)b.~~ Consistency of proposed trees, shrubs and ground cover to existing and surrounding habitats; such as uplands, wetlands, pine flats, scrub, etc.
- ~~(3)e.~~ Provision of shade on paved areas, roofs, windows, south, east and west walls.
- ~~(4)d.~~ Protection of existing wildlife areas.
- ~~(5)e.~~ Minimization of exotic plant material.
- ~~(6)f.~~ Existing and proposed site elevations, grades and major contours.
- ~~(7)g.~~ Location of existing and proposed utilities.

4. ~~D.~~ Shoreline protection.

~~a.1.~~ No arbor permit shall be issued unless the following conditions are met:

- (1)a- The benefits of the activity substantially outweigh the adverse effects of the permitted activity.
- (2)b- No practical alternative to placement exists.
- b.2- The shoreline activity shall be designed, constructed, maintained and undertaken in a way that minimizes the adverse impacts on the beneficial functions of the affected environmentally sensitive area, and must meet all other applicable provisions of this code. The following shall be required to evaluate issuance of an arbor permit for alteration of a shoreline:
  - (1)a- The means for minimizing and controlling erosion.
  - (2)b- The means for stabilizing soils at and below the normal high-water elevation.
  - (3)e- The method for filtering runoff.
  - (4)d- The method for reducing the nutrient concentration in both surface runoff and lake water.
  - (5)e- The percentage of shoreline vegetation proposed to be removed.
  - (6)f- The justification for the replacement of vegetation and its ability to protect and improve the water quality.
- c.3- Compliance with this code does not excuse any person for noncompliance with other federal, state, regional or local regulations; including the Saint Johns River Water Management District.

B. Landscape and Irrigation

1. Permitting Process - Other than Individual Residential Lots

- a. Prior to the installation, expansion, or modification of an irrigation system or landscaping for all development except for individual single-family residential homes, an owner/contractor or contractor shall obtain a valid permit from the City. A drawing of the irrigation and/or landscaping, with parts and substance identified in accordance with this Code, shall be submitted with the permit application. However, such plan may be submitted with the Development Plan as allowed by the City and in the case of a development which requires a Development Plan.

- b. A valid permit must be properly displayed at the job site prior to commencement of work.
- c. A permit is valid for a period of twelve months from date of its issuance or for the duration of the building permit, if obtained in conjunction with a building permit. The City may, at its discretion, extend this time limit for any reasonable period of time not to exceed an additional six months.
- d. The addition and/or removal of heads shall not require a permit as long as an additional zone is not required. The additional heads installed, however, shall function in accordance with this chapter.
- e. Repair procedures such as head replacement, pipe repair, and valve replacement shall not require a permit, but replacement parts shall function in accordance with this chapter.
- f. Prior to the issuance of a permit for the construction of a new non-residential building, common area within residential development, or the substantial alteration of a non-residential building or site, a landscape and/or irrigation plan, when required, shall be submitted to, reviewed by, and approved by the City. The plans shall:
  - (1) Be prepared by and bear the seal of a landscape architect and/or irrigation contractor.
  - (2) Be drawn to scale, including dimensions and distances.
  - (3) Delineate the existing and proposed parking spaces, or other vehicular areas, access aisles, driveways, and similar features, plants, trees, and other obstacles.
  - (4) Irrigation systems shall be drawn with parts and requirements listed in Article 5.01.10(e)
  - (5) Designate by name and location the plant material to be installed or preserved in accordance with the requirements of this Article.
  - (6) Identify and describe the location and characteristics of all other landscape materials to be used.
  - (7) Show all landscape features, including areas of vegetation required to be preserved by law, in context with the location and outline of existing and proposed buildings and other improvements on the site, if any.

- (8) include a tabulation clearly displaying the relevant statistical information necessary for the City to evaluate compliance with the provisions of this chapter. This includes gross acreage, area of preservation areas, number of trees to be planted or preserved, square footage of paved areas, and such other information as may be necessary.
- (9) Contain such other information that may be required by the City that is reasonable and necessary to determine that the landscape or irrigation plan meets the requirements of this chapter.
- (10) The requirement for a landscape plan sealed by a landscape architect, or a irrigation plan stamped by an irrigation contractor, may be waived by the City for individual owner-occupied landscape and irrigation projects. However, the project shall comply with the requirements of this section and shall meet the standards outlined herein.

2. Residential Self Certification

- a. Single-family residential developments are required to submit a self-certification checklist to the City upon completion of all installations as outlined in 5.01.06 B (3).
- b. Contractors and owner/contractors shall be accountable for proper installation and compliance through self-certification. The City may conduct an adequate number of random inspections to ensure compliance with this code.
- c. A contractor or owner/contractor must submit a completed and endorsed checklist on a form provided by the City. A copy of the certification checklist must also be provided to the property owner. A list of plants installed on the site must be attached to the self-certification checklist and provided to both the City and property owner.
- d. No certificate of occupancy shall be issued until a completed self-certification checklist has been submitted to the City.

3. Inspections - Non-residential and Residential Common Areas

- a. Prior to the issuance of any Certificate of Occupancy or Certificate of Acceptance, contractors and owner/contractors shall request a final inspection of work performed after the submittal of a self-certification checklist. The City shall conduct an inspection to ensure compliance with this code.

- b. Upon final inspection, a contractor or owner/contractor must submit to the City a record drawing of the project identifying modifications if there were changes from the originally submitted plan.
- c. Certificates of occupancy - No certificate of occupancy shall be issued until:
  - 1. An affidavit of completion and compliance and a completion sketch, if there were modifications from the original plan, have been submitted and accepted by the City; and
  - 2. The City has conducted any required final inspection.

**SECTION II. Amendment of Section 5.01.07:**

That Section 5.01.07, "Tree Replacement," of Article V, of Part III, of the Code of Ordinances of the City of Apopka, Land Development Code, is hereby amended and replaced in its entirety as follows:

**5.01.07 Tree replacement.**

- A. All trees that are removed or destroyed shall be replaced by a species of trees approved by the city. The cost of replacing trees shall be incurred by the applicant/developer. The specifications regulating the replacement of trees are cited below. These requirements may be waived by the city for replacement of trees impacted by non-survival, disease, acts of God (e.g., fire, storm, lightning), and other injuries not related to development.
  - 1. Characteristics of replacement trees. The replacement trees shall have at least equal shade potential, screening properties, and other characteristics comparable to that of the trees removed.
  - 2. Quantity of replacement trees. Replacement trees shall be required according to a standard of one inch DBH total replacement for each one inch DBH removed. Any number of trees may be utilized to meet the inch-for-inch requirement provided acceptable spacings and design are maintained.
    - a. The number of required replacement trees, or a portion thereof, may be waived by the city if the city determines that the remaining number of trees preserved on site are of sufficient number and quality to substantially comply with the purpose and intent of this section.
    - b. The maximum tree stock the city may require on a particular property shall be 30 inches DBH plus five inches DBH per 1,000 square feet of area over 6,000 square feet, for replacement of specimen or historic trees.



- c. The maximum tree stock the city may require on a particular property shall be 21 inches DBH plus 3 ½ inches DBH per 1,000 square feet of area over 6,000 square feet, for land clearing and replacement of protected trees other than specimen or historic trees.
3. Minimum standard for replacement trees. The minimum size of a replacement tree shall be three ~~1½~~ 3 inches DBH with a minimum planted height of eight feet and shall be Florida department of agriculture nursery grade standard (quality) of no. 1 or better.
4. Transplanting and maintenance requirements. All trees transplanted pursuant to this code shall be maintained in healthy, living condition. Any such trees which die shall be replaced by the applicant. The city shall retain jurisdiction to ensure compliance with this section.
5. [Deferral of planting. ] If the applicant can demonstrate that the market conditions are such that replacement trees are not readily available or the time of year is not suitable for planting, then compliance with this code may be deferred for a period of time approved by the city; but in no case for a cumulative time in excess of 18 months. The applicant shall post a cash escrow, or other financial security acceptable to the city, for an amount sufficient to pay the costs plus ten percent for the required, but not yet installed, landscaping before such deferral shall be authorized.

**SECTION III. Amendment of Section 5.01.08**

That Section 5.01.08, “Required Landscaping,” of Article V, of Part III, of the Code of Ordinances of the City of Apopka, Land Development Code, is hereby amended and replaced in its entirety as follows:

**5.01.08 Required Landscaping.**

The trees, landscaping, and irrigation required by this article shall be installed prior to the final inspection by the city. Required landscaping shall be installed according to the plans and specifications as submitted and approved by the City of Apopka before a certificate of occupancy (CO) will be issued. A CO may be issued prior to acceptance of the arbor requirements provided a cash escrow or other financial guarantee satisfactory to the city is provided in an amount sufficient to pay the costs plus ten percent of the required, but not yet installed, landscaping. This article shall apply to all proposed development within the City, including individual single family lots. In development plans for subdivision shall include requirements for the landscaping of individual single family lots; such requirements shall comply with all applicable provisions of this article.

The city may prohibit issuance of additional building permits on lands where violations of this article are determined by the city to exist, until such time as appropriate remedial action is agreed to by the city and completed by the developer.

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To accommodate large canopy trees and to encourage preservation of dense tree cover or clumps of native vegetation, allowances may be granted by the city to allow fewer trees with greater DBH or more trees with smaller DBH provided the cumulative DBH exceeds the minimum tree requirement.

- A. *Minimum tree requirement.* A minimum of one tree with a normal mature height in excess of 25 feet, each with a minimum DBH of 2 ½ inches and planting height of eight feet, shall be required at the time of certificate of occupancy (CO). The standard for quantity of trees required will be one tree per 8,000 square feet of site area. The number of trees required by this part for the perimeter and parking area shall be counted toward this requirement. This requirement is in addition to any buffers that may also be required.
  
- B. Nonvehicular open space. All nonvehicular open spaces, excluding water areas, on any developed site in all zoning districts shall be landscaped; such landscaping may include grass, ground cover, shrubs, trees, mulch or native cover. All structures shall be treated with landscaping so as to enhance the appearance of the structure and to screen any detractive or unsightly appearance.
  1. Residential structures within 75 feet of a rear lot line abutting a street shall be screened with an opaque wall or fence or other landscape buffer approved by the city; a hedge row 36 inches high and planted 3 ½ feet on center or a nonbuildable wooded strip (as determined by the city) ten feet wide shall be considered an adequate landscape buffer.
  2. Multifamily residential and nonresidential properties shall be required to plant one canopy shade trees per 35 lineal feet, or fraction thereof, of property perimeter not abutting a street or parking area.
  3. Multifamily residential and nonresidential properties shall be required to plant one canopy shade tree and ten shrubs (minimum height 36 inches) per 35 lineal feet, or fraction thereof, of property perimeter abutting a street.
  
- C. Parking or other vehicle use area.
  1. A minimum of one canopy shade tree, plus an additional one canopy shade tree for every 20 spaces or any portion thereof, shall be required.
  2. Parking islands shall be provided for every 20 parking spaces in a row. Said islands shall be a minimum width of five feet, measured from the back of all required curbing.
  3. All interior landscaping shall be protected from vehicular encroachment by curbing or wheel stops and should be raised unless such areas are designed as a part of the on-site retention and recharge areas.

4. Where wheel stops are used, the length of the parking stall may be reduced to 18 feet if a landscaped dividing strip is widened a minimum of eight feet.
5. Interior landscaping shall account for a minimum of ten percent of parking and traffic circulation areas.
6. A hedge row, consisting of shrubs a minimum height of 36 inches and planted 3 ½ feet on center, or other approved screening shall be required where parking areas are adjacent to a street.
7. Where parking areas are adjacent to surrounding properties, landscaping shall be installed to provide visual relief, screen parking areas, and reduce noise and vibration from adjacent properties. Landscaping shall not be required if the parking area is completely screened from surrounding properties by intervening buildings or structures.
8. Interior landscaping should consist of a mix of vegetation including, but not limited to, trees, shrubs and ground cover.
9. Tree clumping within interior islands is encouraged.
10. Sufficient shade trees shall be planted so that 30 percent of the gross parking lot area shall be covered by canopy at mature growth.

D. Use of required areas.

1. Accessory structures (e.g., garbage or trash collection points or receptacles) shall be landscaped, providing a living wall or tree lines when available.
2. No accessory structures, or any other functional use contrary to the intent and purpose of this code, shall be permitted in a required landscape area. This does not prohibit the combining of compatible functions such as landscaping and drainage facilities.

E. Buffer yard landscaping requirements.

1. Buffer yards shall be required in accordance with article II of this code. All buffer yards shall contain, at a minimum, sufficient trees to accommodate a cumulative standard of 3 ½ inches DBH per 1,000 square feet of area. Ground cover, as approved by the city, shall be required to cover a minimum of 25 percent of the buffer area. Plant materials, mulch or other approved material shall cover 100 percent of the buffer yard. Incorporation of berms, hedges and other screening devices may be required at the city's discretion to obtain the desired buffer effect.

2. Land area restricted for drainage use may be incorporated into buffer yards provided all other buffer yard requirements are met. The developer's engineer must certify that the required drainage patterns and storage capacity are not adversely affected by this additional use of the land.
3. Use of native vegetation is preferred. Waiver of a strict interpretation of these planting requirements may be granted to prevent harm to existing native vegetation if the buffering and aesthetic purposes of the buffer zone are substantially fulfilled despite the waiver.
4. Berms shall be at least three feet in height and shall not exceed a 3:1 slope.
5. In order to promote aesthetically pleasing buffers, walls and fences may meander within the buffer yard, provided, however, at least 25 percent of the wall or fence must be located within one foot of the interior extent of the buffer yard.
6. Where masonry walls are required, fences of iron, steel, or other equally durable material and vegetation which will reach 75 percent opacity and the required height of the wall within 24 months of installation may be permitted.

F. Required Park Sites.

Required park sites shall have a minimum of one canopy tree (3" DBH) for every 4,000 square feet.

G. Bufferyards Adjacent Right-of-Ways.

Within buffer yards that are adjacent to rights-of-way, one canopy tree must be provided at intervals and in a fashion described in 5.01.01(B) along with a continuous hedgerow with the hedges 24 inches high and spaced 36 inches apart.

H. Water Wise principles and Site Design Standards.

1. It is the intent of this chapter to assist the City in achieving conservation through proper plant selection, installation and maintenance practices. The following principles serve as the primary means of achieving water conservation:
  - a. Appropriate planning and design.
  - b. Limiting turf areas to locations where it provides functional benefits.
  - c. Efficient irrigation systems.
  - d. The use of soil amendments to improve water holding capacity of the soil.

- e. The use of mulches, where appropriate.
  - f. The use of drought-tolerant plants.
  - g. The preservation of existing plant communities and the re-establishment of native plant communities.
  - h. The use of shade trees to reduce transpiration rates of lower story plant materials.
  - i. Retention of stormwater runoff on site.
  - j. The use of pervious paving materials.
2. Appropriate plant selection and location – Any landscaping plans required by this code shall adhere to the following standards:
- a. Plant selection for landscaped areas shall be based on the plant’s adaptability to the existing conditions present at the site, and shall consider the appropriate hardiness zone, soil type and moisture conditions, exposure to sun, and mature plant size. Plants selected must be suited to withstand the soil and physical growing conditions found in the microclimate of each location on site with supplemental irrigation only during periods of low rainfall.
  - b. Plants shall be grouped in accordance with their respective water and maintenance needs to provide for efficient irrigation. Plants with similar water soil, climate, sun, and light requirements shall be grouped together.
  - c. Landscape shall be installed a minimum of 2.5 feet from the foundation.
  - d. Turf and non-turf areas shall be designed to be distinctly separate when irrigation is used.
  - e. A landscape maintenance checklist and information regarding the plants installed shall be provided to the property owner by the contractor.
3. Selection of grass species – Turf applications within landscaping plans required by this code shall adhere to the following:
- a. Lawn areas shall be planted with species suitable as permanent lawns. Effective erosion control is mandatory in swales, rights-of-way, or other areas subject to erosion.

- b. The primary types of grass used for residential, commercial, and industrial areas in the Central and South Florida areas are identified in the UF/IFAS Florida Yards and Neighborhoods (FYN) programs.
- c. Unless exempted by the City, no more than fifty (50) percent of the green space area or one-half acre, whichever is smaller, may be planted with a lawn grass that has a rating of low in regards to drought tolerance as established in 5.01.08(E)(3)(b), above. (i.e. St. Augustine grass)
- d. There is no limit on the green space area that may be planted with lawn grass, when the grass has a rating of medium or better as established in 3.b, above. (i.e. Bahia grass)
- e. Unless exempted by the City, medians, open spaces, and/or retention areas, shall use drought tolerant grasses with a rating of medium or better as established in 5.01.08(E)(3)(b), above.
- f. In addition to those approved within 5.01.08(E)(3)(b), above, the following drought tolerant grasses are approved for use by this code:
  - (1) Bahia grass                      High Tolerance
  - (2) Bermuda grass                      Medium Tolerance
  - (3) Centipede grass                      Medium Tolerance
  - (4) Zoysia grass                      Medium Tolerance
  - (5) St. Augustine grass                      Low Tolerance

I. Plant material and installation standards.

1. General:

- a. The following standards shall be considered the minimum requirements for the installation of all landscaping required by this code.
- b. All landscaping shall be installed in a sound workmanlike manner and according to accepted and proper planting procedures with the quality of plant materials as hereinafter described.

2. Plants installed pursuant to this chapter shall conform to or exceed the minimum standards for Florida Number One as provided in the most current edition of "Grades and Standards for Nursery Plants," prepared by the State of Florida Department of Agriculture and Consumer Services. Another accepted standard may be used if it equals or exceeds the quality of Florida Number One.

3. Ball sizes on all transplanted plant materials shall conform to or exceed the minimum standards as noted in the most current edition of "Grades and Standards for Nursery Plants" prepared by the State of Florida Department of Agriculture and Consumer Services.
4. Root barriers with a minimum depth of 36" must be installed when canopy trees planted within 5 feet from utilities, walls, sidewalks and any other structures as determined by the city.
5. Required landscape materials shall be installed using planting soil of a type appropriate to the individual plant material and the soil conditions in which the planting is occurring.
6. The use of mulches reduce the growth of weeds, control erosion, and retain moisture over the root zones of plant materials. All mulches, either natural or synthetic, are encouraged, however the use of cypress is discouraged. If required on a landscape plan, any mulch layer shall be 2 to 3 inches in depth.
7. Amending existing soil prior to sodding or seeding:
  - a. The organic content of the top four (4) inches of the lawn bed for all areas to be seeded or sodded shall be a minimum of five (5) percent.
  - b. The required soil amendments for the lawn bed shall be provided on all landscape projects.
8. Trees shall not exceed a mature height of 12 feet under electrical distribution lines. No trees shall be planted under electrical transmission Lines.

J. Maintenance standards for cultivated landscape areas.

1. The owner or assigns of land subject to this chapter shall be responsible for the maintenance of said land in good condition so as to present a healthy, neat and orderly landscape area.
  - a. Use requirements for maintenance of mulch layers: The required mulch layer shall be maintained on all landscape projects.
  - b. Maintenance of plants, replacement: All plants required by this code shall be maintained in a healthy, pest-free condition. Within six (6) months of a determination by the City that a plant is dead or severely damaged or diseased, the plant shall be replaced by the property owner or owners in accordance with the standards specified in this chapter.

- c. Removal of dead, diseased or dangerous trees or shrubs: It shall be the responsibility of each private property owner to remove any dead, diseased or dangerous trees or shrubs, or parts thereof, which overhang or interfere with traffic control devices, public sidewalks, rights-of-way or property owned by the City. The City shall have the authority to order the removal of any such trees or shrubs.
  
- d. Pruning:
  - (1) All pruning should be accomplished according to good horticultural standards.
  
  - (2) Trees shall be pruned only as necessary to promote healthy growth. Unless special approval is provided by the City, trees shall be allowed to attain their normal size and shall not be severely pruned or "hat-racked" in order to permanently maintain growth at a reduced height. Trees may be periodically pruned or thinned in order to reduce the leaf mass in preparation for tropical storms. All pruning shall be accomplished in accordance with Tree Care Industry Association, formerly known as the National Arborist's Association.
  
- e. Grass shall be mown as required in order to encourage deep root growth and therefore the preservation of irrigation water.
  
- f. All roadways, curbs and sidewalks shall be edged when necessary in order to prevent encroachment from the adjacent grassed areas.
  
- g. Watering:
  - (1) All watering of planted areas shall be managed so as to:
    - (a) Maintain healthy flora.
    - (b) Make plant material more drought tolerant.
    - (c) Avoid excessive turf growth.
    - (d) Minimize fungus growth.
    - (e) Stimulate deep root growth.
    - (f) Minimize leaching of fertilizer.



(2) Irrigation systems shall be installed, operated, and maintained in accordance with section 5.01.10.

K. Maintenance of natural plant communities.

All open space areas that are to be preserved as natural plant communities shall be trimmed as necessary of all exotic vegetation, lawn grasses, trash or other debris and shall be managed to maintain the plant community for the purpose it was preserved.

L. Waivers.

The City may waive or reduce the required landscaping if the requirements are shown to be excessive or unreasonable due to unusual site restrictions. Staff may grant non-substantial waivers, and the City Council is the final authority on all waiver requests.

**SECTION IV. Amendment of Section 5.01.09:**

That Section 5.01.09, "Approved Plants," of Article V, of Part III, of the Code of Ordinances of the City of Apopka, Land Development Code, is hereby stricken in its entirety and fully replaced as follows:

**5.01.09. Approved Plants**

A. All planted landscaping required by this code must be selected based upon appropriate hardiness zone, soil type and moisture conditions, exposure to sun, and mature plant size. The use of native vegetation is encouraged. Selection of plants species shall be made based upon Florida Friendly landscape concepts outlined in the UF/IFAS Florida Yards and Neighborhoods (FYN) handbook and as identified in the UF/IFAS published Florida Friendly Plant List (current edition) as may be amended from time to time. Trees and other vegetation shall be planted in soil and climatic conditions which are appropriate for their growth habits. Trees and plants other than those listed below or in the UF/IFAS Florida Friendly Plant List (current edition) must be approved by the City.

B. Nuisance plants.

The following species of trees and plants are prohibited from being planted in any landscaping scenario and are unacceptable for meeting any landscaping/tree requirements:

**Prohibited Plant List**

Casuarine species	Australian pine
Schinus terebinthifolius	Brazilian pepper
Melaluca leucadendra	Cajeput or punk tree
Eucalyptus camaldulensis	Cama eucalyptus
<i>Cupanoipsis anacardioides</i>	Carrot Wood
Melia azedarch	Chinaberry
Sapium sebiferum	Chinese tallow
<i>Imperata cylindrical</i>	Cogon Grass
Enterlobium cyclacarpuml contortisiliquum	Ear tree
<i>Acacia auriculiformis</i>	Ear Leaf Acacia
Eucalyptus spp.	Eucalyptus robusta
<i>Hygrophila polysperma</i>	Green Hygro
<i>Hydrilla verticillata</i>	Hydrilla
Jacaranda acutifolia	Jacaranda
<i>Pueraria Montana</i>	Kudzu Vine
<i>Melaleuca quinquenervia</i>	Melaleuca
Auracaria wrightii	Monkey puzzle
<i>Malaleuca leucadendron</i>	Punk Tree
Grevillea robusta	Silk oak
<i>Solanum spp,</i>	Soda Apple
<i>Eichhornia spp.</i>	Water Hyacinth
<i>Pistia stratiodes</i>	Water Lettuce
<i>Ipomea aquatica</i>	Water Spinach
<i>Dioscorea spp.</i>	Winged Yam, Air Potatoe

- C. In areas of existing exotic tree/plant species such as but not limited to Brazilian pepper, Australian pine, and chinaberry as provided by the prohibited plants list, removal is encouraged.

**SECTION V. Amendment of Section 5.01.10**

That Section 5.01.10, "Irrigation," of Article V, of Part III, of the Code of Ordinances of the City of Apopka, Land Development Code, is hereby stricken in its entirety and fully replaced as follows:

**5.01.10 Irrigation.**

A. Purpose and intent.

1. The purpose and intent of this section is to promote water wise practices by establishing standards for the development, installation, and maintenance of landscape irrigation systems without inhibiting creative landscape design, construction and management. These landscape and irrigation standards are consistent with F. S. §§ 373.228 and the Committee on Landscape Irrigation and Florida Friendly Design Standards.
2. The water wise irrigation standards set forth herein are designed to conserve local water supplies and minimize adverse effects on Florida's natural systems.
3. The quality of Florida's surface and ground water is adversely affected by irrigation runoff and leachate. Improper landscape irrigation design, construction, and management contributes to nonpoint source pollution that affects ground and surface water quality.
4. This code establishes water wise landscape irrigation standards and encourages the use of Florida Friendly landscaping practices. Water wise landscape irrigation standards promote efficient water use, minimize polluted runoff, and utilize water conservation components and equipment. The Florida Friendly landscape concept is based on the principles of the UF/IFAS (University of Florida / Institute of Food and Agricultural Sciences) Florida Yards and Neighborhoods (FYN), the St. Johns Water Management Districts Florida Water Star Program, and practices identified in the Green Industries Best Management Practices for Protection of Water Resources in Florida (current edition) as amended.

B. Authority and applicability.

1. This code is adopted by the City of Apopka in an effort to meet the water needs of this state in a manner that will supply adequate and dependable supplies of water where needed. These standards reference the authority granted by the state under F. S. §§ 166.048, "Conservation of Water; Xeriscape," 373.228 "Landscape Irrigation design," and 166.0415 "Enforcement by Code Inspectors."
2. These provisions shall be the minimum standards for irrigation systems applicable to landscape irrigation systems within the incorporated areas of the City.

3. These provisions apply to new irrigation system installations on individual residential parcels, subdivision and other residential common areas, multi-family development, all non-residential developments, and additions of one (1) or more zones to an existing irrigation system. All expansions must conform to the requirements of Section 5.01.10(E). No future expansion or modification will be allowed on a Water Wise system that would make the system non-compliant with this ordinance.

C. Definitions.

For the purposes of this chapter, the following terms or words shall apply. If definitions at any time conflict with definitions provided in other Chapters, the more restrictive interpretations shall apply:

1. Automatic System: An irrigation system which operates using a preset program entered into an automatic controller.
2. Address: The house number of a physical location of a specific property. This includes “Rural Route” numbers, but excludes Post Office Box numbers. If a lot number in a mobile home park or similar community is used by the U.S. Postal Service to determine a delivery location, the lot number shall be the property’s address. An “even numbered address” means an address ending in the numbers 0, 2, 4, 6, 8, or the letters A – M. An “odd numbered address” means an address ending in the numbers 1, 3, 5, 7, 9, or the letters N – Z.
3. Best Management Practices: BMPs for water wise landscape irrigation means a practice or combination of practices, based on research, field-testing, and expert review, and including economic and technological considerations, determined to be the most effective, practicable, on-location means for improving water quality, conserving water supplies and protecting natural resources.
4. Completion Sketch: A legible drawing or diagram indicating the date of installation, the number of zones, location of zones, backflow preventer, valves, rain sensors, and water source. The drawing should represent the irrigation system as it exists at the time of irrigation system completion prepared by or at the direction of the person installing the system. This drawing must have substantially the same form and contain the information as the sample sketch on file with the original permit.
5. Distribution Equipment: The water emitters on irrigation systems, including but not limited to sprinklers, rotors, spray heads and microirrigation devices.
6. Expansion of Irrigation System: The addition of one (1) or more zones to an existing system.

7. Filter: A device in an irrigation system that separates sediment or other foreign matter.
8. Florida Friendly Landscape: A landscape that incorporates the BMPs and philosophies promoted by programs such as Florida Yards and Neighborhoods/Environmental Landscape Management. The programs promote quality landscapes that conserve water, utilize water wise principles, protect the environment, are adaptable to local conditions, and are drought tolerant.
9. Florida Water-Star program: A program for new residential construction that is intended to provide indoor and outdoor water efficient housing options and help prevent leaks. Florida Water-Star is service marked by the St. John's River Water Management District of Florida.
10. Ground Cover: The low growing plants, other than turfgrass, used to cover the soil and form a continuous, low mass of foliage.
11. Hardscape: The areas such as patios, decks, driveways, in-ground swimming pools, fences, paths, decorative paving, and sidewalks that do not require irrigation.
12. High Volume Irrigation Area: A portion of landscaped area of any property that utilizes rotors, pop-up sprays, or sprinkler heads that irrigate more than five gallons per minute (per outlet).
13. Irrigation Contractor: Certified Pump and Irrigation Contractors, those with Florida Irrigation Society and Irrigation Association Certifications, licensed Florida Water Well Contractors, Florida State Registered Plumbing Contractors, or Florida State Certified Plumbing Contractors.
14. Irrigation System: A device or combination of devices having a hose, pipe, or other conduit connected directly to any source of water, or a mixture of water and chemicals, is drawn and applied for residential, commercial or agricultural purposes.
15. Irrigation Zone: A. grouping of rotors, sprinkler heads, pop-up sprays, microirrigation emitters, or other irrigation equipment operated simultaneously by the control of one valve.
16. Landscape: Any combination of living plants (such as turfgrass, ground cover, shrubs, vines, hedges, or trees) and non-living landscape material (such as rocks, pebbles, sand, or mulch).
17. Landscaped Area: Any parcel, excluding the building footprint, driveways, sidewalks, hardscapes such as decks and patios, and non-porous areas. Water

features are included in the calculation of the landscaped area. This area includes Xeriscape as defined in § 373.185(1)(b) F.S.

18. Low Volume Irrigation Area: A portion of landscaped area of any property that uses exclusively microirrigation.
19. Medium Volume Irrigation Area: A portion of landscaped area of any property that utilizes pop-up sprays or sprinkler heads that irrigate at a rate of one-half to five gallons per minute (per outlet).
20. Microirrigation: The application of small quantities of water directly on or below the soil surface, usually as discrete drops or tiny streams through emitters placed along the water delivery pipes (laterals.) Microirrigation encompasses a number of methods or concepts including drip, subsurface, micro-bubbler, and micro-spray irrigation, previously referred to as trickle irrigation, low volume, or low flow irrigation. These emitters shall not exceed more than 20 gallons per hour (per outlet).
21. Mulch: Non-living, organic or synthetic materials customarily used in landscape design to retard erosion and retain moisture.
22. Native Vegetation: Plant species with a geographic distribution indigenous to all, or part, of the State of Florida, as identified in Wunderlin, R. P. 1998. *Guide to the Vascular Plants of Florida*. University Press of Florida, Gainesville. For the purposes herein, native vegetation does not include areas converted for agricultural use.
23. Owner/Contractor: A person who installs an irrigation system on his or her own primary residence.
24. Permitting Authority: The City of Apopka.
25. Pop-up Sprays: Spray heads, usually hidden in the landscape, that pop-up due to water pressure when activated and provide a continuous spray pattern throughout a given arc of operation.
26. Portable Sprinklers: Any type of water sprinkler attached to the end of a hose including, but not limited to impact sprinklers, oscillating-arm sprinklers, and stationary fan sprinklers.
27. Precipitation rate: The rate at which water is applied in gallons per minute or gallons per hour.
28. Pressure Regulating Head: A device that maintains a constant flow and pressure for increased efficiency of irrigation systems. This device shall have a pressure regulating device built into the stem or body that is identifiable from the top of the head.

29. Rain Sensor Device: An unobstructed, operational, electrical or mechanical component placed in the circuitry of an irrigation system that is designed to override a sprinkler controller when precipitation has reached a pre-set quantity as outlined in § 373.62 F.S.
30. Reuse / Reclaimed Water: Reclaimed water is the product of an advanced treatment process which cleans wastewater. This treatment process produces water ideal for plant irrigation and other commercial/industrial uses.
31. Runoff: Water from rainfall, irrigation, or other sources that is not absorbed by the soil or landscape and flows from the area, often contaminated with pesticides, fertilizers, and other pollutants.
32. Turfgrass: A mat layer of monocotyledonous plants such as Bahia, Bermuda, Centipede, Paspalum, St. Augustine and Zoysia.
33. Valve: A device used to control the flow of water in an irrigation system.
34. Water Wise Irrigation: Irrigation design, installation, and maintenance that incorporates water efficient strategies and components, such as pressure regulating heads, rain sensor devices, and BMPs
35. Water Wise Principles: Appropriate planning and design, proper choice of plants, soil analysis that may include the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance as set forth in §373.185 F. S.

D. Irrigation systems shall be required as follows:

1. Single-family and duplex residential:
  - a. Each dwelling unit shall have a minimum of two hose bibs.
  - b. All commons areas shall be irrigated through an automatic irrigation system which complies with this code. This requirement may be waived by the City for landscaped areas containing plants acceptable for water conservation techniques. Consideration of a waiver of the irrigation requirement shall include, but not be limited to, the area covered by native vegetation, local conditions such as sun or shade, type of soil, depth to water table, and size and configuration of lot.
2. Multifamily and nonresidential development shall provide an irrigation system which complies with this code for all landscaped areas. This requirement may be waived by the City for landscaped areas containing plants acceptable for water conservation techniques. Consideration of a waiver of the irrigation requirement shall include, but not be limited to, the area covered by native vegetation, local

conditions such as sun or shade, type of soil, depth to water table, and size and configuration of lot.

3. The following are exempted from the provisions of this code:
  - a. Hand watering and portable sprinklers.
  - b. Bona fide agricultural uses.
  - c. Golf course play areas and specialized athletic fields, provided however, the remainder of any such property shall comply with the requirements of this division.
  
- E. Irrigation systems shall be designed and constructed in accordance with the technical standards contained in Appendix F of the plumbing volume of the Florida Building Code, the most recent edition of the Florida Irrigation Standards manual and the following:
  1. Irrigation systems are to be designed and installed at a pressure of forty (40) p.s.i.
  2. A rain sensing shutoff device shall be required on all irrigation systems to avoid irrigation during periods of sufficient rainfall. Equipment shall consist of an automatic sensing device or switch which will override the irrigation cycle when adequate rainfall has occurred. It must be placed where it is exposed to unobstructed natural rainfall and in compliance with F.S. § 373.62, as amended.
  3. The use of irrigation risers shall be prohibited.
  4. Check valves which are capable of holding a minimum of a five foot head shall be used in low-lying areas to prevent head drainage.
  5. Back-flow into any water source shall be prevented as provided in Rule 62-555, Florida Administrative Code, as amended. Any back-flow prevention device that is testable, shall be tested by a certified back-flow technician upon installation, whenever the device is repaired and annually, when connected to municipal or investor-owned drinking water systems. Back-flow prevention devices are required on irrigation systems connected to private wells when also used as a private drinking water source.
  6. Irrigation design with the appropriate uniformity for the type of plant being grown and for the type of soil.
  7. Irrigation system equipment shall be installed in accordance with manufacturer's specifications.



8. Irrigation zones divided according to:
  - a. available flow rate
  - b. vegetated groupings (i.e., turf, shrubs, native plants, etc.)
  - c. sprinkler types (i.e., sprinklers with matching precipitation rates)
  - d. soil characteristics
9. Spray heads and rotors shall not be mixed in the same zone.
10. Narrow areas, four (4) feet or less, are not to be irrigated unless low volume/micro-irrigation is used.
11. Low volume irrigation is required for all trees, shrubs, and groundcover beds. The City may waive this requirement if special circumstances exist.
12. Distribution equipment in a given zone shall have matched precipitation rates.
13. Application rates shall be calculated and programmed into irrigation timer to avoid runoff and to permit uniform water infiltration into the soil, considering land slope, soil hydraulic properties, vegetative ground cover, and prevailing winds.
14. A minimum separation of four inches between distribution equipment and pavement.
15. A minimum separation of 24 inches between distribution equipment and buildings and other vertical structures.
16. No direct spray onto walkways, buildings, roadways, and drives.
17. Rotors and sprays in turf areas shall be spaced to provide head to head coverage.
18. Water conveyance systems with a flow velocity of five feet per second or less.
19. Pipelines designed to provide the system with the appropriate pressure required for maximum irrigation uniformity.
20. Pressure regulating heads shall be identifiable from the top of the head.
21. A maintenance checklist shall be provided to the property owner by the irrigation contractor (affixed to or near controller) accompanied by a recommended maintenance schedule, proper irrigation system settings according to season, recommendations for checking rain sensor device, filter cleaning recommendations and information on the current water restrictions within the City of Apopka.

22. Upon completion of the irrigation system, a tag or sticker shall be affixed to the timer box if it is an automatic system. If it is a manual system, a sticker or tag shall be affixed to the outside main electrical breaker box on the inside of the door. The tag or sticker shall include the permit number (for non-residential), a copy of the landscape and irrigation certification and checklist, date installed, number of zones, and the installer's names.
  23. Any irrigation system which is used for the application of chemicals shall be equipped with an anti-siphon device constructed in accordance with the most current version of F. S. §§ 487.021 and 487.064, as amended.
  24. All irrigation system underground piping shall have minimum soil cover of six inches.
  25. Irrigation system piping and fittings shall be approved by National Sanitation Foundation for potable water use when upstream of the back-flow device.
  26. All low voltage wiring used for system controls shall be installed in accordance with the most recent edition of the National Electric Code.
  27. Reclaimed irrigation water and application facilities located on private properties, including residential properties, shall be lavender in color. Routine repairs covering less than twelve inches on residential systems may use any color pipe. Irrigation heads shall be lavender in color if available from manufacturer. A sign must be posted indicating reclaimed water is being used as irrigation (in English and Spanish). A warning sign prohibiting consumption shall be posted at any hose bib dispensing reuse water. Irrigation using reclaimed water rather than potable water when reclaimed water is reasonably available is strongly encouraged.
- F. System Layout. Irrigation systems shall comply with the following requirements:
1. A high volume irrigation area shall not exceed 50 percent of the landscaped area, but shall not, in any case, cover more than one-half acre on single family residential lots. Low or medium volume irrigation areas may be utilized in lieu of any high volume irrigation area.
  2. A medium volume irrigation area shall not exceed 25 percent of the landscaped area. However, the landscaped area may contain up to 75 percent medium volume irrigation area, if no high volume irrigation area is utilized on site.
  3. A low volume irrigation area may be utilized for an entire landscaped area, however, no less than 25 percent of the area covered shall utilize low volume irrigation. Zones in this area shall have a pressure regulator and a filter with a mesh smaller than the emitter openings.

4. Irrigation system operation and maintenance.
  - a. Irrigation systems shall be operated properly and in compliance with this section and all automatic controllers shall be programmed to maximize water conservation. Automatic irrigation systems shall be operated in accordance with City administrative rules or St. John's River Water Management District in compliance with Section 82-194, Apopka City Code.
  - b. Irrigation systems shall be maintained to meet the requirements of this section and the spirit of water conservation. Systems shall be routinely examined to prevent waste of water due to loss of heads, broken pipes or misadjusted nozzles.
  - c. Reducing or removing the required 25 percent low volume irrigation area is prohibited.
  - d. Expanding high volume irrigation area above the maximum 50 percent is prohibited.

**G. Native Vegetation Retention.**

1. Any area preserved as native vegetation shall be exempt from any irrigation requirement, given:
  - a. No supplemental water shall be applied to the native vegetation area.
  - b. Only hand pruning of native vegetation is allowed.
  - c. Mechanical mowing or clearing is prohibited.

**SECTION VI. Amendment of Section 5.01.12**

That Section 5.01.12, "Administration and Enforcement," of Article V, of Part III, of the Code of Ordinances of the City of Apopka, Land Development Code, is hereby amended and replaced in its entirety as follows:

**5.01.12 Administration and enforcement.**

**A. Penalties.**

Any land clearing or tree removal violation of this article, as well as any failure to maintain or protect trees in accordance with landscaping and tree regulations, shall be deemed to be a violation of the Apopka Municipal Code and punishable pursuant to F.S. ch. 162, ~~and~~ Section 11.03.00 of the land development code, and Chapter 54, Article II, of the Apopka Municipal Code.

- ~~A.1.~~ Correction of nuisance by the city. Nuisances may be corrected or abated as allowed under Chapter 42, Article II. Nuisances. ~~Upon determination by the city that a nuisance violation exists, the property owner shall be notified of the violation, the required corrective action, and the time period for [within] which the violation must be corrected; this time period shall not be more than 30 days or less than ten days (unless there is an immediate threat to public safety) from the receipt of the notice. In the event the owner shall not correct the violation within the established time frame, the city may cause the corrective action and shall bill the property owner for the cost of such action plus any administrative fees as determined by the city. The finance director shall have the discretion to allow the property owner to pay the bill in installments, in which event an annual interest rate of eight percent shall be applied to the unpaid balance, until paid in full. The finance director shall also have the authority to issue such invoices on the monthly solid waste collection utility bill for the respective property. If the property owner fails to pay the full cost or to enter into a repayment agreement with the city within 30 days of issuance of the invoice, or the property owner defaults on a payment schedule, the city may file a lien against the property for the unpaid balance.~~
- ~~B.2.~~ Illegal land clearing or tree removal. Penalties for violations of this section shall be as specified in F.S. § 162.09 and section 11.03 of the land development code and the following:
- ~~1.a.~~ Subject to the maximum fines pursuant to F.S. § 162.09, if protected trees are illegally removed from the site, the fine shall be \$50.00 per one inch DBH removed in addition to the land clearing fine.
- ~~2.b.~~ In addition to the above fines, tree, shrub or landscape replacement shall be required in a manner consistent with this section.
- ~~C.3.~~ Trees damaged during construction. Subject to the maximum fines pursuant to F.S. §162.09, if damage occurs to a tree designated to be protected during construction and the tree has to be removed due to the damage, then a fine of \$100.00 per tree [shall be imposed] in addition to the required tree replacement, in a manner consistent with section 5.01.07 of this code.
- ~~D.4.~~ Appeals. Any person or party aggrieved by an administrative decision or order of city personnel in the implementation and enforcement of the provisions of this section may request a hearing as set forth in the Code Enforcement Citation and Nuisance Abatement Program in the Apopka City Code. ~~appeal to the tree beautification board upon payment to the city of a fee of \$100.00, setting forth the facts and reasons why he feels the administrative decision or order is not reasonable or in the public interest, according to the spirit and intent of this code.~~

B. Incentives for Retroactive Compliance.

The City may administratively provide incentives for residents to retroactively comply with the provisions of this code. Incentives may include financial assistance, equipment, services, or other mechanisms, to promote the reduction in the use of water and the protection of the environment and natural resources.

1. Eligibility

- a. Existing city customers in homes or other developments that were built prior to the adoption of this article are eligible to apply for currently active incentives provided by the City. Incentives may be limited to single family homes.
- b. All incentives awarded are subject to the submittal of complete applications and determination of eligibility and qualification by the City. Applications will be accepted only from the current property owner(s) of record.
- c. The incentive program is provided on a first come, first served basis, and is subject to the availability of budgeted funding.
- d. Incentives will be awarded on a one (1) time basis to any physical address regardless of changes in property ownership.

2. Incentives

The incentives, which may change from time to time, will be established to encourage residents to retrofit existing inefficient and high water-use devices with effective and efficient water-use devices.

- a. Examples of incentives include:
  1. Rotor/Spray head replacement
  2. Low Volume Irrigation Systems retrofits
  3. Rain Sensor or Soil Moisture Sensors installations.
  4. ET Controller/Smart Controller installations
  5. Irrigation Audit provided to residents

C. Preemption of Restrictive Covenants.

The intent of the WaterWise Landscaping and Irrigation provision within this Code is to preserve the water resources of this community. They are designed to protect the health and public welfare of all residents of Apopkas. In furtherance of this intent, the City encourages compliance with the Water Wise techniques included

in this Code by all property owners, including those subject to restrictive covenants which were established prior to the effective date of these provisions. The provisions contained within the Sections 5.01.06, 5.01.08, 5.01.09, and 5.01.10 shall be available for utilization by all property owners within the City. Any restrictive covenants which would preclude adherence with the above referenced sections shall be preempted by this Code.

**SECTION VII. Amendment of Section 1.08.13**

That Section 1.08.13, "Definitions," of Article V, of Part III, of the Code of Ordinances of the City of Apopka, Land Development Code, is hereby amended to include the following definitions:

1. Ecosystem: A characteristic assemblage of plant and animal life within a specific physical environment, and all interactions among species, and between species and their environment.
2. Green Space/Open Space For the purpose of this article, they shall be interpreted to mean:
  - a. All areas of natural plant communities or areas replanted with vegetation after construction, such as: revegetated natural areas, tree, shrub, hedge or ground cover planting areas; and lawns; and
  - b. That area on a lot left after construction that is not impervious. Lot size less impervious area nets open space.
3. Hedge: A landscape barrier consisting of a continuous, dense planting of shrubs.
4. Landscaping: Any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees) and nonliving landscape material (such as rocks, pebbles, sand, mulch, walls, fences or decorative paving materials).
5. Median: The area, usually landscaped, between opposite travel lanes on a divided roadway.
6. Plant species, prohibited: Those plant species which are demonstrably detrimental to native plants, native wildlife, ecosystems, or human health, safety, and welfare.
7. Shrub: A self supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than ten (10) feet in height at its maturity.
8. Site specific planting: The selection of plant material that is particularly well suited to withstand the physical growing conditions which are normal for that location.
9. Water-Wise: Landscape methods which conserve water through design techniques and the use of site appropriate and/or drought tolerant plants.

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**SECTION VII. Directions to the City Clerk:** That the City Clerk, or the Clerk's designee, is hereby authorized to include this amendment in the Apopka Code of Ordinances of the City of Apopka, Florida. The Clerk may make format changes as necessary to ensure consistency with the current Code protocol.

The definitions included in Section VII shall be codified within Section 1.08.13 in a manner that maintains the alphabetical order of all definitions.

**SECTION VIII. Conflicts:** All ordinances and resolutions or parts of ordinances and resolutions in conflict herewith are hereby repealed.

**SECTION IX. Severability:** If any section or portion of a section or subsection of this ordinance proves to be invalid, unlawful, or unconstitutional it shall not be held to invalidate or impair the validity force or effect of any other section or portion of a section or subsection or part of this ordinance.

**SECTION V. Effective Date:** This ordinance shall become effective immediately upon adoption.

FIRST READING: May 7, 2008

SECOND READING  
AND ADOPTION: May 21, 2008

\_\_\_\_\_  
John H. Land, Mayor

ATTEST:

\_\_\_\_\_  
Janice Goebel, City Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Frank C. Kruppenbacher, City Attorney

DULY ADVERTISED FOR PUBLIC HEARING: May 9, 2008