

PROPOSED ORDINANCE NO. 498

AN ORDINANCE OF THE TOWN OF BELLEAIR, FLORIDA, AMENDING THE TOWN OF BELLEAIR CODE OF ORDINANCES, CHAPTER 26, ENVIRONMENT, ARTICLE V, WEEDS OVERGROWN VEGETATION, AND DEBRIS; PROVIDING FOR CERTAIN DEFINITIONS; PERTAINING TO MAINTENANCE OF TREES AND VEGETATION; PERTAINING TO NOTICE OF VIOLATION; PERTAINING TO APPEALS; PERTAINING TO FAILURE TO COMPLY; PERTAINING TO ABATEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Belleair adopted the Code of Ordinances as set forth in Ordinance No. 349, on April 19, 1994; and

WHEREAS, the Town Commission of the Town of Belleair has from time to time approved amendments to the Code of Ordinances; and

WHEREAS, the Town Commission over an extended period of time has reviewed and determined it necessary and prudent to update and revise; and

WHEREAS, the Town Commission has received and considered the input and recommendation of the Planning and Zoning Board; and

WHEREAS, the Town Commission desires to amend the Code of Ordinances, Chapter 26, Environment, Article V, Weeds, Overgrown Vegetation, and Debris to provide rules pertaining to maintenance standards for trees and vegetation.

NOW, THEREFORE, BE IT ORDAINED BY THE Town Commission of the Town of Belleair, as follows:

Section 1. The Code of Ordinances, Sec. 26-141. Removal Required is amended to read as:

Sec. 26-141. Purpose.

The purpose of this section is to provide for public safety, maintain visibility along streets and intersections, improve the general appearance of the Town's neighborhoods, protect the environment and to preserve storm drainage systems.

Section 2. The Code of Ordinances, Sec. 26-142. Inspection for compliance with Sec. 26-141; procedure for failure to comply; action by town commission is amended to read as:

Sec. 26-142. Definitions.

The following words, terms and phrases, when used in this Chapter 26, Article V of this code of ordinances, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Except as specifically defined in this section, all words used in this Code shall have their customary dictionary definition.

Code inspector means those authorized agents or employees of the town whose duty it is to ensure compliance with the codes or ordinances which are subject to this article, or in the absence of such authorized agents or employees, the town manager.

Curb line separates a street or highway into the area dedicated to vehicle traffic (roadway) and the area dedicated to pedestrian and non-motor vehicle traffic (planting strip, sidewalk, etc.).

Grass a low, green plant that grows naturally having groups of very thin leaves that grow close together in large numbers for a lawn.

Groundcover refers to plants that are used in place of turfgrass, to provide protection from erosion and drought, and to improve its aesthetic appearance by concealing bare earth.

Hedge means a solid, unbroken row of shrubs, bushes or small trees forming a fence or boundary.

Lawn is an area of land planted with grasses or (rarely) other durable plants, which are maintained at a short height and used for aesthetic and recreational purposes. Common characteristics of a lawn are that it is composed only of grass species, it is subject to weed and pest control, it is subject to practices aimed at maintaining its green color, and it is regularly mowed to ensure an acceptable length.

Repeat violation means a violation which is alleged to occur on a property which was the site of the same violation within the preceding 12 months, at a time when the property was under the same ownership, and the preceding violation was not corrected by the owner but required the Town to take corrective action.

Shrub or a bush is a woody plant with several perennial stems that may be erect or may lie close to the ground. It will usually have a height less than 13 feet and stems no more than about three inches in diameter.

Solid waste shall mean refuse, garbage, trash, yard recyclables and household recyclables as defined in Sec. 46-1.

Right-of-way shall mean an easement for public vehicular or pedestrian travel, including streets, alleys, walkways and public sidewalk easements. As per Sec. 74-152(a) the right-of-way shall be measured from lot line to lot line.

Town shall mean Town of Belleair.

Tree is a woody plant with a single erect perennial trunk at least 3 inches in diameter at breast height at maturity. Most trees have definitely formed crowns of foliage and most attain heights in excess of 13 feet.

Turf refers to the upper layer of ground that is made up of grass and plant roots.

Turfgrass is any of the various grasses (including but not limited to Bahia, St. Augustine, Bermuda or perennial ryegrass, etc.) grown to form turf. It does not mean artificial turf or synthetic lawn.

Utility Easement shall mean an easement for utilities or other purposes other than rights-of-way.

Vegetation means all the plants or plant life in a particular place.

Vegetative materials and yard recyclables shall mean yard clippings, leaves, hedge trimmings, grass and yard sweepings and fallen branches.

Waste materials means and includes trees, tree stumps, tree limbs, tree trunks larger than four inches in diameter and longer than four feet.

Section 3. The Code of Ordinances, Sec. 26-143. Lien; recording; interest; foreclosure is amended to read as:

Sec. 26-143. Maintenance standards for trees and vegetation.

- (a) The owner of record of a property is responsible for the maintenance of trees and vegetation on private property. Vegetation shall comply with all codes including visibility at intersections, alleys, sidewalks and driveways. Where support cabling/bracing of vegetation is provided at the time of installation, the cables and braces shall be removed no later than one year after installation to prevent damage to the vegetation.
- (b) Lawns shall be maintained at a maximum overall height of eight inches or less. Lawns will be considered overgrown if approximately 25% of the front yard, or side yards, or rear yard, or right-of-way, or utility easement exceeds eight inches

in height overall. Vegetation adjacent to driveways shall not encroach onto the driveway and should be kept trimmed to the edge of the driveway.

- (c) Vegetation which is a hazard to public safety is prohibited in the right-of-way as per Sec. 26-141. Hazardous vegetation on private property with pronounced thorns (such as Spanish bayonet, century plant, bougainvillea, and lime trees) shall not be closer than ten feet to a sidewalk or right-of-way.
- (d) Hedges are prohibited in the right-of-way as per Sec. 74-152(c)(1); and a hedge may not obstruct the visibility triangle as per Sec. 74-153(g). As per Sec. 74-234, private or public landscape development in the public rights-of-way within the town shall be designed and planted in accordance with the master landscape plan (Ordinance No. 314).
- (e) Vegetation adjacent to public sidewalks and public streets shall not encroach onto the sidewalk or onto a street surface. All vegetation should be kept trimmed to the edge of the sidewalk or to the curb line of the street surface. The branches of trees and shrubs which grow above sidewalks and rights-of-way shall provide a minimum of eight feet of vertical clearance; and when above streets and alleys, a minimum of 15 feet of vertical clearance.
- (f) Fire hydrants, water meters and back flow pipes must have a three foot clearance around them for accessibility from vegetation. Water meter boxes must be kept trimmed and edged around the box to prevent vegetation from growing into or over the box.
- (g) It is unlawful for any property owner to permit to remain on any property, any tree or tree branch that is diseased or in a weakened condition as described in Sec. 74-383(a)(2)(e), so as to pose a danger to any person, or any right-of-way or property of another as determined by the Town's arborist. The Town's arborist will be a certified and current member in the International Association of Arboriculture (ISA).
- (h) It shall be unlawful to deposit any solid waste, waste material or lawn waste in such a manner that it may be carried or deposited by the elements upon any public place, waterway or private premises within the Town either directly or indirectly as per Sec. 46-4.
- (i) As per Sec. 74-152(c)(1), no encroachment shall be permitted into existing rights-of-way, except for temporary use authorized by the town.

- (j) Unless approved by the Town Manager, rights-of-way shall be maintained at a level and even grade.
- (k) No person shall plant any vegetation in a utility easement which will interfere with the use of the easement for utility maintenance purposes.

Section 4. The Code of Ordinances, **Sec. 26-144 Notice of violation; procedure for failure to comply; appeals; abatement by the Town** is created and to read as:

- (a) **Notice of violation.** If a code inspector determines that overgrown vegetation violates the maintenance standards in this section as found on a parcel of property, the owner(s) of record of the property will be notified in writing and shall require that such owner(s) cause the violation(s) to be remedied within ten calendar days.

(1) The notice shall be given by certified first class mail return receipt requested, addressed to the owner(s) of record of the property as their name(s) and address are shown upon the records of the County Property Appraiser. Service of the notice shall be deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid. Notice may be served by hand delivery to the owner(s) of record of the property in lieu of mailing.

(2) The notice shall also be posted upon the property on which the violation exists on the day of certified mailing.

- (b) **Appeal.** Within seven calendar days after the date of posting the notice on the property, the owner or the designated agent of the owner may file an appeal to show that the violation(s) alleged in the notice does not exist. However, if the violation is a repeat violation, the time in which to file an appeal shall be five calendar days from the date of posting the notice on the property. An appeal shall be in writing and must be filed with the Town Clerk.

The appeal shall be heard by the Town Manager or his designee. The hearing shall be conducted at a reasonable time and place, following notice of the hearing to the appellant. All appeal hearings shall be conducted within two working days from the date of filing of the appeal. The hearing shall be informal and the strict rules of evidence shall not be applicable, but the minimal requirements of due process shall be observed. The objective of the hearing shall be to render a decision which is fair and just under the circumstances. At the hearing, the code inspector and the owner, or the designated agent of the owner, may introduce such

evidence as is deemed necessary. The decision of the Town Manager or his designee shall be final and the owner shall be deemed to have exhausted all administrative remedies.

(c) **Procedure for failure to comply.**

(1) If the violation(s) of Town Code are not corrected by the property owner by the date stated in the notice of violation and no appeal has been made, or if made, a hearing has been held and has concluded adversely to the owner and the violation is not corrected within five days following the date of the hearing, the Town shall have authority to cause the violation to be corrected. By receiving the notice of violation and failing to correct the violation or file an appeal (or to correct the violation within five days of an unsuccessful appeal), the property owner shall have given implied consent for the Town, or its designee, to go onto the owner's property, including into fenced yards, to correct the violation(s).

(2) The Town shall have authority to cause the cutting and removal of vegetation (such as mowing an overgrown lawn; trimming vegetation next to sidewalks and streets for clear passage for pedestrians and vehicles; edging driveways, sidewalks and curbs; and to remove dead vegetative materials laying on the ground) when such work is necessary to correct the violation(s). The costs of such work, as well as such administrative and other costs (i.e. code inspector's and other town employees' time) as are necessary to correct the violation(s), shall be charged against the property as a special assessment as provided in this section.

(3) Any action taken in regard to the disposal, abatement or removal of a violation of the maintenance standards shall be considered cumulative and in addition to penalties and to other remedies provided elsewhere by ordinance or law.

Section 7. The Code of Ordinances, **Sec. 26-145 Assessment; liens; interest; foreclosure;** is created to read as:

- (a) **Assessment.** After causing the violation to be corrected, costs incurred by the Town, including all administrative and other costs, will be billed to the property owner(s). The bill will provide a date in which these costs must be paid. A notice will be included that if the bill is unpaid by the due date a lien will be placed on the property.

- (b) **Interest on special assessment liens.** If the principal amount of a special assessment under this section remains unpaid after 30 days from the due date, the Town Manager or designee shall authorized a lien be placed against the property for the delinquent assessment fee. Interest at the rate of 12 percent per annum from the day after the payment due date shall be charged until the principal and interest are paid in full. All interest shall also constitute a lien against the property assessed of equal dignity to the principal amount of the lien.
- (c) **Records of liens and interest due.** The Town Clerk shall keep complete records relating to the amount payable for the liens and interest and may from time to time send a statement of the principal and interest due upon such liens to the record owners of the property upon which the liens exist.
- (d) **Foreclosure of liens.** At any time after the expiration of 30 days the Town may proceed to foreclose the special assessment lien in the manner prescribed in F.S. Ch. 173 or as otherwise permitted by law.

Section 9. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held illegal, invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

Section 10. This Ordinance shall be in effect upon a subsequent affirmative vote of the Town commission and shall have an effective date of at least thirty (30) days after the aforementioned affirmative vote as prescribed by Section 2.11 of the Town Charter of the Town of Belleair, Florida.

PASSED ON FIRST READING:

PASSED ON SECOND AND FINAL READING:

Mayor

ATTEST:

Town Clerk