

LAND DEVELOPMENT CODE AMENDMENT

PETITION

PL20230018350

ORIGIN

Board of County
Commissioners (Board)

SUMMARY OF AMENDMENT

This amendment updates the provisions related to the removal of prohibited exotic vegetation in the Land Development Code (LDC) by identifying additional site improvements that may occur without initiating the removal requirements. LDC amendments are reviewed by the Board, Collier County Planning Commission (CCPC), Development Services Advisory Committee (DSAC), and the Land Development Review Subcommittee of the DSAC (DSAC-LDR Subcommittee).

HEARING DATES

BCC	03/12/2024
CCPC	03/07/2024
	02/15/2024
DSAC	02/07/2024
DSAC-LDR	01/16/2024

LDC SECTION TO BE AMENDED

03.05.08 Requirement for Removal of Prohibited Exotic Vegetation

ADVISORY BOARD RECOMMENDATIONS

DSAC-LDR	DSAC	CCPC
Approval with Recommendations	Denial	TBD

BACKGROUND

The first tree protection ordinance was adopted by the County as Ord. No. 1973-23. It included provisions for a tree removal permit process, and it identified a short list of tree species that were exempted from protection. The ordinance was amended in 1974 and then repealed/replaced twice; once in 1975 and again in 1976, the latter of which representing the time when the County adopted comprehensive zoning regulations for the Coastal Area Planning District (i.e., Ord. No. 1976-30).

When Ord. No. 1979-73 was adopted, the County started requiring the removal of exotic plants on properties where improvements were proposed, except on lands used for agricultural purposes or on properties zoned and platted for single-family residential homes. In January 1982, the County adopted a new zoning ordinance (Ord. No. 1982-2); however, this new ordinance inadvertently omitted the Exotic Vegetation Section and was corrected in May 1982 with the adoption of Ord. No. 1982-37, reinstituting the requirement that exotics be removed on all lands, except for single-family residential use or agriculturally zoned lands.

Additional changes to the code would be made over the years, notably with the adoption of Ord. No. 2004-08, which introduced the requirement for preserve management plans and the removal of exotic vegetation within the first 75 feet of the outer edge of every preserve; however, single family residences were specifically exempted. When the code was comprehensively updated again with the passage of Ord. No. 2004-41, the requirement for removing exotic vegetation prior to the issuance of a certificate of occupancy was extended to include new principal and accessory structures on single and two family lots. However, tents, awnings, cabanas, utility storage sheds, and screen enclosures were not exempted until the adoption of Ord. No. 2005-27.

Subsequent amendments to LDC section 3.05.08 occurred in 2008 and 2015. At the Board hearing on December

12, 2023, under Staff and Commission General Communications, Commissioner Hall requested that staff update the LDC as it pertains to the removal of exotic vegetation.

DSAC-LDR Subcommittee Recommendation:

On January 16, 2024, the DSAC-LDR Subcommittee recommended approval of the LDC amendment, contingent upon eliminating the proposed text on page 4, lines 39-40 (“within the approved cleared area and within seven and one-half (7.5) feet from all property lines”) and the similar text on page 4, lines 48-49. Staff did not incorporate any of the changes recommended by the DSAC-LDR Subcommittee.

DSAC-Recommendation:

On February 7, 2024, the DSAC recommended denial of the proposed LDC amendment. Prior to voting, some members of the DSAC expressed the following concerns:

1. The LDC amendment is unfair, because developers will incur the cost of removing exotics on their own property when the seed-source (of prohibited exotic plant material) will be from neighboring properties, and that a cleared area of 7.5 feet is insufficient. Most of the damage from hurricanes occur from the exotic vegetation flying around during high winds.
2. Understands the removal of exotic plants is for the betterment of the whole community. The requirement to remove exotics is a good requirement.
3. The LDC amendment would perpetuate the spreading of exotics, as noted by observing the presence of pepper hedge on vacant lots along the rights-of-way.
4. The LDC amendment is unfair in that it exempts residential but not commercial.
5. Will create confusion with respect to the lots in Golden Gate (Estates), as many have wetlands and are required to remove exotics for their DEP and federal permitting (County species vs. State and Federal species).

FISCAL & OPERATIONAL IMPACTS

There are no anticipated fiscal or operational impacts associated with this amendment.

GMP CONSISTENCY

The proposed LDC amendment has been reviewed by Comprehensive Planning staff and may be deemed consistent with the GMP.

EXHIBITS: None

Amend the LDC as follows:

3.05.08 – Requirements for Removal of Prohibited Exotic Vegetation

Prohibited exotic vegetation specifically includes the following:

- Earleaf acacia (*Acacia auriculiformis*)
- Australian pine (*Casuarina* spp.)
- Melaleuca (*Melaleuca* spp.)
- Catclaw mimosa (*Minosa pigra*)
- Downy rosemyrtle (*Rhodomyrtus tomentosa*)
- Brazilian pepper (*Schinus terebinthifolius*)
- Java plum (*Syzygium cumini*)
- Women's tongue (*Albizia lebbek*)
- Climbing fern (*Lygodium* spp.)
- Air potato (*Dioscorea bulbifera*)
- Lather leaf (*Colubrina asiatica*)
- Carrotwood (*Cupaniopsis anacardioides*)

A. General.

1. Prohibited exotic vegetation removal and methods of removal shall be conducted in accordance with the specific provisions of each local development order.
2. Native vegetation shall be protected during the process of removing prohibited exotic vegetation, in accord with the provisions of LDC section 3.05.04.
3. Prohibited exotic vegetation shall be removed from the following locations, and within the following timeframes:
 - a. From all rights-of-way, common area tracts not proposed for development, and easements prior to preliminary acceptance of each phase of the required subdivision improvements. [This shall not apply to rear yard electric service utility easements on Estates zoned lots.](#)
 - b. From each phase of a site development plan prior to the issuance of the certificate of occupancy for that phase.

- 1 c. From all golf course fairways, roughs, and adjacent open space/natural
2 preserve areas prior to the issuance of a certificate of occupancy for the
3 first permitted structure associated with the golf course facility.
4
5 d. From property proposing any enlargement of existing interior floor space,
6 paved parking area, or substantial site improvement prior to the issuance
7 of a certificate of occupancy.
8
9 4. In the case of the discontinuance of use or occupation of land or water or structure
10 for a period of 90 consecutive days or more, property owners shall, prior to
11 subsequent use of such land or water or structure, conform to the regulations
12 specified by this section.
13
14 5. Verification of prohibited exotic vegetation removal shall be performed by the
15 County Manager or designee.6.Herbicides utilized in the removal of prohibited
16 exotic vegetation shall have been approved by the U.S. Environmental Protection
17 Agency. Any person who supervises up to eight (8) people in the application of
18 pesticides and herbicides in the chemical maintenance of exotic vegetation in
19 preserves, required retained native vegetation areas, wetlands, or LSPA shall
20 maintain the Florida Dept. of Agriculture and Consumer Services certifications for
21 Natural Areas Pesticide Applicators or Aquatic Herbicide Applicators dependent
22 upon the specific area to be treated. When prohibited exotic vegetation is removed,
23 but the base of the vegetation remains, the base shall be treated with an U.S.
24 Environmental Protection Agency approved herbicide and a visual tracer dye shall
25 be applied.
26
27 B. Exotic vegetation maintenance plan. A maintenance plan shall be submitted to the County
28 Manager or designee for review on sites which require prohibited exotic vegetation
29 removal prior to the issuance of the local development order. This maintenance plan shall
30 describe specific techniques to prevent reinvasion by prohibited exotic vegetation of the
31 site in perpetuity. This maintenance plan shall be implemented on a yearly basis at a
32 minimum. Issuance of the local development order shall be contingent upon approval of
33 the maintenance plan. Noncompliance with this plan shall constitute violation of this
34 section. The County Manager or designee shall inspect sites periodically after issuance of
35 the certificate of occupancy, or other final acceptance, for compliance with this section.
36
37 C. Applicability to new structures and to additions on single-family and two-family lots. In
38 addition to the other requirements of this section, the applicant shall be required to remove
39 all prohibited exotic vegetation before a certificate of occupancy is granted on any new
40 principal or accessory structure and any additions to the square footage of the principal or
41 accessory structures on single-family or two-family lots. Estates (E) zoned lots must only
42 remove prohibited exotic vegetation from the approved cleared areas and within seven
43 and one-half (7.5) feet from all property lines. This shall not apply to tents, awnings,
44 cabanas, utility storage sheds, or screened enclosures not having a roof impervious to
45 weather. This shall not apply to interior remodeling of any existing structure.
46
47 The removal of prohibited exotic vegetation shall be required in perpetuity. Upon issuance
48 of a vegetation removal permit, subject to the provisions in LDC section 3.05.02 F. and
49 G., prohibited exotic vegetation may be removed prior to issuance of a building permit.
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D. Exceptions. Prohibited exotic vegetation may remain on property when the County Manager or designee receives a request from the property owner to retain the vegetation. The County Manager or designee shall approve such a request upon finding that at least one of the following criteria has been met.

1. The prohibited exotic vegetation has been previously approved through the County development review process and planted in accordance with the landscape requirements at the time of final local development order approval.
2. The subject lot is developed with, or proposed to be developed with, a single family dwelling unit, and:
 - a. is not within the RFMU Sending Lands overlay district; and
 - b. is not within a NRPA overlay district; and
 - c. is not located on a undeveloped coastal barrier island; and
 - d. the vegetation requested to be retained is an existing Java plum tree(s) that has attained a single-trunk diameter at breast height (DBH) of 18 inches or more.
3. The prohibited exotic vegetation contains a nest of a bald eagle. Where such vegetation occurs within a bald eagle nest protection zone, removal shall be in accordance with the FWC Bald Eagle Management Plan and FWC Bald Eagle Management Guidelines, or as otherwise permitted by the FWC and/or USFWS. Where a bald eagle nest is determined to be "lost" as defined by the FWC, such vegetation shall be removed as required by LDC section 3.05.08.

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