



AGENDA
PLANNING COMMISSION
CITY OF PORT ORANGE

Meeting Date: Thursday, July 23, 2020

Time: 5:30 PM

Type of Meeting: Regular

Location: Council Chambers
City Hall, 1000 City Center Circle

A. CALL TO ORDER

1. Pledge of Allegiance
2. Silent Invocation
3. Roll Call

B. DISCUSSION/ACTION

4. Consideration of Minutes
12. APPLICATION: LDC Amendment/Chapter 9, Article II and Chapter 13
CASE NO.: 20-25000004
APPLICANT: City of Port Orange
STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671/pcruz@port-orange.org

Request to amend Chapter 9, Article II and Chapter 13 of the Land Development Code (LDC) to update the historic tree removal process, update penalty fees, create tree abuse regulations, and to remove the landscape materials lists from the LDC and to adopt them by resolution.

C. OTHER BUSINESS

6. Commissioner Comments
7. Staff Comments

D. PUBLIC COMMENTS

E. ADJOURNMENT

NOTICES — PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE PLANNING COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.



FOR SPECIAL ACCOMMODATIONS, PLEASE NOTIFY THE CITY CLERK'S OFFICE (PHONE: 386-506-5563) AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING DATE.



HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

PUBLIC PARTICIPATION INSTRUCTIONS

Due to the Novel Coronavirus Disease 2019 (COVID-19) and Federal, State, County, and the City's Declarations of State of Emergency, and City of Port Orange Executive Order 9, the City of Port Orange will be calling meetings only when necessary, and conducting public meetings using communications media technology until the Local State of Emergency has concluded. Those wishing to attend meetings are encouraged to join the meeting through electronic means.

The July 23, 2020 Planning Commission Meeting will be conducted physically in Council Chambers at City Hall, 1000 City Center Circle with an opportunity to participate virtually. Access in Council Chambers will be limited in order to comply with the safety instructions relating to COVID-19.

To view and/or participate in the Planning Commission meeting on July 23, 2020, which begins at 5:30 p.m., you have the following additional options:

1. Watch the meeting online, but not participate:

You may watch the meeting via Spectrum Channel 498 or through the City's YouTube Channel:

<https://www.youtube.com/channel/UCTYNmc7tZVRrB2NH5-Oj7hg>

2. Watch the meeting online and provide public comment prior to the meeting:

You may watch the meeting as listed above, and also provide written comments no less than 3 hours prior to the meeting time by emailing City Clerk Robin Fenwick at cityclerk@port-orange.org, regular mail at 1000 City Center Circle, Port Orange, FL 32129, or place it in the Drop Box at the front door of City Hall. Please include your full name, city of residence, and comments by the deadline and your comments will be read into the record. There is also a form located on the City's website at: www.port-orange.org/publiccomments which can be submitted electronically. Time limits will be enforced so written comments must be limited to no more than 3 minutes.

3. Watch the meeting online and provide public comment during the meeting:

Request to Speak instructions:

To request to attend virtually and speak during the meeting, you must complete the Request to Speak form prior to the start of the meeting to be placed on a list. You may access the form by visiting www.port-

Planning Commission Meeting

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orange.org/publiccomments. You must fill out all required information for the form to be submitted. Forms are due to the City Clerk no later than 24 hours prior to the meeting date/time. Once the form is received, the meeting link and instructions will be provided to you via email.

For additional information or for special assistance prior to the meeting, please contact Robin Fenwick, City Clerk, cityclerk@port-orange.org or (386) 506-5563.

REGULAR PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
JUNE 25, 2020

THE REGULAR PLANNING COMMISSION MEETING of the City of Port Orange was called to order by Chair Mills-Benat at 5:30pm.

Pledge of Allegiance

Silent Invocation

Roll Call

Present: Maria Mills-Benat, Chair
Thomas Jordan
Lance Green
Newton White
Stan Schmidt
John Junco

Absent: Darrel “Bo” Bofamy (excused)

Also Present: Shannon Balmer, Assistant City Attorney
Shelby Field, Assistant City Clerk

B. DISCUSSION/ACTION

4. Consideration of Minutes

Motion to approve the minutes as presented from May 27, 2020 was made by Commissioner White and Seconded by Commissioner Schmidt. Motion carried unanimously by roll call vote.

5. Case No: 20-30000001

Conditional Use/Christ the King Community Church
6015 Spruce Creek Rd.

A request by the applicant for approval of a Conditional Use to allow outdoor church services and program/meetings on the subject property.

STAFF CONTACT: Tim Burman, Community Development Director (386) 506-5675
tburman@port-orange.org

Tim Burman, Community Development Director, discussed details of the proposed conditional use and answered questions from Commissioners.

Scott Kirschner, applicant, provided pictures of the area and answered questions from Commissioners.

Brian Spies, citizen, spoke against the length of the conditional use and the impact to the property. He is against the item.

Vendela Dollar, citizen, spoke in support of the outdoor use for the church and the positive impacts she has seen.

Mr. Kirschner responded to citizen concerns and stated they will continue to improve the property.

Motion to approve Case No. 20-30000001 with staff recommendations was made by Commissioner Jordan and Seconded by Commissioner White. Motion passed unanimously by roll call vote.

6. CASE NO.: 20-40000002

PUD Amendment/First Amendment to the New Port Planned Unit Development Master Development Agreement
1401 Reed Canal Rd.

A request by the applicant to amend the Master Development Agreement (MDA) for the New Port Apartments Planned Unit Development (PUD) to allow the multi-family development project to be completed in phases in accordance with the requirements in the Land Development Code.

STAFF CONTACT: Briana Conlan-King, Senior Planner (386) 506-5676 brking@port-orange.org

Penelope Cruz, Planning Manager, discussed details of the proposed amendment and answered questions from Commissioners.

Jeff Brock, representative for the applicant, answered questions from Commissioners.

Motion to approve Case No. 20-40000002 with staff recommendations was made by Commissioner Junco and Seconded by Commissioner Jordan. Motion passed unanimously by roll call vote.

7. CASE NO.: 20-40000003

PUD Amendment/Third Amendment to the Woodhaven Planned Unit Development Master Development Agreement
North of Pioneer Trail, between I-95 and the Cypress Head Subdivision

A request by the applicant to amend the Master Development Agreement (MDA) for the Woodhaven Planned Unit Development (PUD) to address modifications to subdivision and lot design/requirements for their future residential developments within the PUD.

STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671 pcruz@port-orange.org

Mrs. Cruz discussed details of the proposed amendment and answered questions from Commissioners.

Dick Smith, ICI Homes, provided more information and answered questions from Commissioners.

Robert Reinhausen, citizen, believes the developer has had plenty of time to readjust the size of the buildings and reduce the impact on the land.

Daniel Hunter, Cypress head Master HOA, does not have a problem with the townhouses but does have an issue with some of the language in the MDA and asks that the Commissioners address the language.

*Motion to approve Case No. 20-40000003
was made by Commissioner Jordan and
Seconded by Commissioner Green. Motion
passed 4-2 by roll call vote with
Commissioners Jordan and White voting no.*

8. CASE NO.: 20-40000004

PCD Amendment/Second Amendment to the Amended and Restated Riverwalk Planned Commercial Development Master Development Agreement

LOCATION: East of Ridgewood Avenue, south of Ocean Avenue, north of Herbert Street

A request by the applicant to amend the Amended and Restated Master Development Agreement (MDA) for the Riverwalk Planned Commercial Development (PCD) to extend the required completion of the Riverwalk Phase 1 site improvements and restaurant building (Fysh Bar & Grill) to September 20, 2021.

STAFF CONTACT: Tim Burman, Community Development Director (386) 506-5675
tburman@port-orange.org

Mr. Burman discussed details of the proposed amendment and answered questions from Commissioners.

Jeff Brock, representative for the applicant, provided a presentation and answered questions from Commissioners.

*Motion to approve Case No. 20-40000004
was made by Commissioner Junco and
Seconded by Commissioner Green. Motion
passed 5-1 by roll call vote with
Commissioner White voting no.*

9. CASE NO.: 20-20000002

20-1 Large-Scale Comprehensive Plan Amendment/4057 Bruner Road

LOCATION: 4057 Bruner Road

A request to amend the Comprehensive Plan Future Land Use (FLU) Map to change the FLU for ±18.7 acres from Volusia County *Urban Low Intensity* (0.2-4 units/acre) to *City of Port Public/Institutional*.

STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671 pcruz@port-orange.org

Mrs. Cruz asked to opened items #9 and #10 together. Commissioners agreed. Mrs. Cruz discussed details of the proposed amendment and rezoning and answered questions from Commissioners.

Lynn Stevens, Public Utilities/Works Director, spoke regarding dust control on previous properties, how that will be addressed on this one and answered questions for Commissioners.

Motion to approve Case No. 20-20000002 was made by Commissioner Jordan.

Motion Withdraw by Commissioner Jordan due to discrepancy in case number on the agenda and staff report.

Motion to approve item 20-1 Large-Scale Comprehensive Plan Amendment on 4057 Bruner Road was made by Commissioner Jordan and Seconded by Commissioner White. Motion passed unanimously by roll call vote.

10. CASE NO.: 20-60000004

Administrative Rezoning/4057 Bruner Road and 4505 Clyde Morris Boulevard

LOCATION: 4057 Bruner Road and 4505 Clyde Morris Boulevard

A request to rezone ±18.7 acres from Volusia County (MH-1) to City of Port Orange Government Public Use (GPU) and ±8.1 acres from Multi-Family Residential (R-3L) to GPU.

STAFF CONTACT: Gwen Perney, Senior Planner (386) 506-5673 gperney@port-orange.org

Motion to approve Case No. 20-60000004 was made by Commissioner Schmidt and Seconded by Commissioner White. Motion passed unanimously by roll call vote.

11. CASE NO.: 20-25000003

LDC Amendment/Chapter 20

A request to approve amendments to Chapter 20 of the Land Development Code (LDC), regarding the Ridgewood Targeted Business Program.

STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671 pcruz@port-orange.org

Mrs. Cruz discussed details of the proposed amendment and answered questions from Commissioners.

Motion to approve Case No. 20-25000003 was made by Commissioner Junco and Seconded by Commissioner Jordan. Motion passed unanimously by roll call vote.

C. OTHER BUSINESS

12. Commissioner Comments

Commissioner Green thanked staff for the work with the former church on Madeline Ave and Williamson Blvd. Mr. Burman provided information on their recent inspection. Commissioner Green asked about the lights on Dunlawton Ave. and Williamson Blvd. Mr. Burman responded they are looking into it and doing what they can.

Commissioner White also commented on the appearance of the lights on Dunlawton Ave.

Commissioner Schmidt asked about the lot on Ridgewood Ave. next to the Fire Department. Mr. Burman is going to ask Ms. Stevens to contact him regarding it.

Commissioner Jordan inquired about the status of the property on Spruce Creek turning into a gym. Mr. Burman responded they are working on submitting their plans. Commissioner Jordan is happy with the median improvements in the city.

13. Staff Comments

There were none.

D. PUBLIC COMMENTS – there were none.

E. ADJOURNMENT – 7:50pm



STAFF REPORT

CASE NO. 20-25000004

LDC Amendment/Chapter 9, Article II and Chapter 13

REQUEST:	To Chapter 9, Article II and Chapter 13 of the Land Development Code (LDC) to update the historic tree removal process, update penalty fees, create tree abuse regulations, and to remove the landscape materials lists from the LDC and to adopt them by resolution.
APPLICANT:	City of Port Orange
STAFF RECOMMENDATION:	Approval
STAFF CONTACT:	Penelope Cruz, Planning Manager (386) 506-5671
PLANNING COMMISSION DATE:	July 23, 2020

SUMMARY OF PROPOSED AMENDMENT

The proposed amendments are intended to improve the content of the existing code, as part of an on-going maintenance effort. The proposed amendments include clarifications and minor changes that are simple clean-up items that make the code more efficient to use, and code improvements that includes changes to the content of the existing code that are intended to address problems or issues encountered when applying the code.

At the October 23, 2018 City Council Workshop, staff presented a summary of the Environmental Advisory Board's recommended modifications to the City's Tree Protection and Landscape requirements in the Land Development Code (LDC) for discussion and Council direction. Based on the discussion at the workshop, staff was asked to move forward with implementing modifications to the LDC related to tree protection/preservation and landscaping requirements. The proposed LDC amendment is part of a series of amendments. [Part I (Ord. 2019-2) and Part II (Ord. 2019-15) were adopted in 2019.]

Historic Tree Removal Process (Chapter 9, Article II, Section 16.5)

Removal on Non-Residential Site:

The proposed amendment clarifies the process for an applicant to request approval to remove a historic tree on a non-residential site (multifamily, commercial, and industrial). Currently, the LDC states that the Environmental Advisory Board (EAB) decides the mitigation requirements after City Council grants approval of a non-residential historic tree removal. However, the past practice over the last 10 years has been to bring a request to remove a historic tree on a non-residential site to the EAB first to obtain their recommendation and then it is reviewed by the City Council. The proposed amendment would clarify the current process to require review by the EAB prior to City Council. This allows the EAB to provide a recommendation to the City Council on the removal request and the historic tree mitigation options including replacements, a contribution to the tree bank, or a combination of both per Resolution 02-71 as may be amended.

Removal on Single-Family & Two-Family Lots:

There are no changes being proposed to the historic tree removal process for single-family and two-family residential lots with this proposed amendment. Currently, staff reviews the request and provides a recommendation to City Council. If approved by City Council and the removal results in less than the required 1 shade tree per 2,500 square-feet of lot coverage [LDC Ch.13, Sec. 5.5(a)(1)], a replacement shade tree is required.

However, the proposed amendment does change the size requirement for a replacement shade tree on one and two-family lots from 1" caliper, 8' height to 2" caliper, 10' height at the time of planting. The proposed change will not affect the number of shade trees required on a lot, only make the size requirement for new and replacement shade trees when a historic tree is removed consistent with the size requirement for new and replacement shade trees on single and two-family lots [LDC Ch.13, Sec. 5.5(a)(1)].

Emergency Removal prior to City Council Approval:

In the event a historic tree on either residential or non-residential property poses imminent danger to life, property or if an act of God or natural phenomenon has occurred (e.g. fire, windstorm, lightening), the LDC currently authorizes staff to issue a tree removal permit on both residential and non-residential lots and process an after the fact review by City Council. The proposed amendment would not change this process for the emergency removal of a historic tree on both residential and non-residential properties. However, the amendment would change how mitigation (replacement trees, tree mitigation bank payment or combination of both) is determined for emergency historic tree removals to allow for staff to include a mitigation recommendation in the after the fact permit review for City Council for both residential and non-residential properties.

Tree Abuse Regulations (Chapter 9, Article II, Section 9.5 and Section 22.6)

Tree hatracking or topping involves the drastic removal or cutting back of large branches and limbs on trees leaving stubs. Hatracking/topping can make a tree hazardous and reduce its life by making the tree more susceptible to internal rot, insects, and disease. While many choose to reduce the tree canopy because of the tree interferes with the view, sunlight or because of a concern for personal or property safety, hatracking/topping of trees is a form of stress that can be avoided. Due to the stress that hatracking/topping places on a tree, it increases the chances of maintenance of a potentially hazardous tree.

The proposed amendment establishes tree abuse regulations within the LDC to enhance the preservation and protection of existing mature shade trees within the City. Trees will be considered abused if the following occur:

1. Cutting upon a tree which alters the natural shape;
2. Hatracking/topping to flat-cut the top of a tree, severing the leader or leaders; or pruning a tree by stubbing off mature wood; or reducing the total circumference or canopy spread not in conformance with the American National Standards Institute, A300 standards or other accepted standards as published (Figure 1); and
3. Trimming of more than one-third (1/3) of the tree canopy within a one-year period.

Figure 1 – Tree Hatracking



Before: Tree Hatracking/Topping



After: Tree Hatracking/Topping

The proposed amendment is to prohibit tree abuse within the City. Abused trees, on either residential or commercial property, will not be permitted to count towards the landscaping requirements of the code for lot coverage (1 tree per 2,500 square feet). In addition, a tree removal permit will be required to remove the abused tree as the stress caused by the tree abuse renders the tree potentially hazardous. Replacement tree(s) and/or mitigation into the City Tree Bank may be required in accordance with the LDC if the lot does not meet or fall below the minimum tree coverage requirements (1 tree per 2,500 square feet of lot coverage) because of the tree abuse.

The proposed tree abuse regulations only pertain to shade trees. Understory trees and any trees listed on the most recent edition of the Florida Exotic Pest Plant Council Invasive Plant List would not be protected by the tree abuse regulations. In addition, the following do not constitute tree abuse:

1. Utility line clearing in conformance with ANSI A-300 and ANSI Z133.1 safety standards and National Electrical Safety Code clearances; and
2. Trees severely damaged by hurricane, windstorm, flood, lightning or other natural phenomena.

If tree abuse is identified on residential or commercial properties, the property owner will receive a notification from city staff that an after the fact tree removal permit is required and that the abused shade tree will need to be removed and replaced with another shade tree per the LDC replacement requirements for residential and commercial properties. If the replacement does not take place, a Notice of Violation will be issued by Code Enforcement.

Penalty Fees (Chapter 9, Article II, Section 22.6)

Currently, the LDC only includes the ability to apply a penalty up to \$5,000 and required mitigation per City historic tree removal resolution (Exhibit 3) for removal of historic trees on multi-family, commercial, industrial and institutional properties without a permit. The proposed amendment revised the penalty for the removal of historic trees to make the penalty fine a flat rate of \$5,000 and add the requirement to pay twice the amount of the regular permit fee which would have been due had the permit been obtained prior to commencing work along with the required mitigation in accordance with the current City historic tree removal resolution, if the required number of replacement trees listed in the City historic tree removal resolution are not planted. For each subsequent violation by the same property owner, the amount of mitigation would be twice the required amount.

The proposed amendment would add a penalty for the removal of a historic tree(s) on a residential property without a permit. Currently, the LDC only requires the submittal of a tree removal permit and planting of replacement trees if the property does not meet the required number of shade trees per the LDC. The proposed amendment adds a penalty for the removal of historic trees on residential property to pay twice the amount of the regular permit fee and mitigation plantings or payment to Tree Bank in accordance with the current City historic tree removal resolution (Resolution to be revised to include residential property).

The amendment would also double the tree removal permit fee for the removal of any tree 6-inches or greater DBH on a residential or non-residential (multi-family, commercial, industrial, institutional) property before a permit is issued.

The proposed penalty fee structure would be:

- Removal of a tree 6-inches or greater DBH on residential or non-residential property without a permit:
 - Pay twice the amount of the regular permit fee which would have been due had the permit been obtained prior to commencing work.
 - Install required replacement trees per the LDC.
 - For each subsequent violation by the same property owner, the amount of mitigation shall be twice the required mitigation amount.
- Removal of a historic tree on a non-residential property without a permit shall pay all of the following:
 - Pay twice the amount of the regular permit fee which would have been due had the permit been obtained prior to commencing work.
 - Install required replacement trees or payment of the required mitigation fee to the City Tree Bank for each required replacement tree which is not planted.
 - Pay the flat \$5,000 fine to the City Tree Bank.
 - For each subsequent violation by the same property owner, the amount of mitigation will be double the required mitigation amount.
- Removal of a historic tree on a residential property without a permit:
 - Pay twice the amount of the regular permit fee which would have been due had the permit been obtained prior to commencing work.
 - Install required replacement trees or payment of the required mitigation fee to the City Tree Bank for each required replacement tree which is not planted.

- For each subsequent violation by the same property owner, the amount of mitigation will be twice the required mitigation amount.

The proposed amendment would waive penalty fees for emergency work, such as, tree removal required to minimize property damage or a life safety hazard due to an act of God or natural phenomenon if the City is closed for business. However, a permit with supporting documents such as photos identifying the emergency nature of the tree removal would need to be applied for the first working day after the emergency removal if a certified arborist or landscape architects report is not provided.

Landscape Materials (Chapter 13, Section 6)

The proposed amendment would remove the landscape materials lists that identify acceptable shade trees, understory trees, shrubs, ornamentals, lawn grass and prohibited species of plant materials that can or cannot be used on residential or commercial properties out of the LDC and these lists would be adopted through a resolution. Adopting the landscape materials lists through a resolution provides more flexibility to update the lists based on the most recent edition of the Florida Exotic Pest Plant Council Invasive Plant List (FLEPPC) and to determine which plant materials best meet the minimum standards to survive and thrive in this subtropical hardiness zone. The EAB plans to review this list annually and make recommendations to City Council regarding any updates needed from the previous year. The FLEPPC list is revised every two years. The current issue was released in 2019 and the next update will be available in 2021.

The following code amendments to Chapter 9 and 13 of the LDC may not apply in cases when removal of a tree(s) through a City issued tree removal permit is preempted by Florida Statute with a certified arborist or landscape architects report.

RECOMMENDATION

Approval of the amendments to Chapter 9, Article II and Chapter 13 of the Land Development Code.

Attachments

Exhibit 1 – Proposed LDC Amendments to Chapter 9, Article II

Exhibit 2 – Proposed LDC Amendments to Chapter 13

Exhibit 3 – Current Historic Tree Mitigation Resolution 02-71

EXHIBIT 1

ARTICLE II: - TREE PRESERVATION

[No Change Section 9]

Section 9.5: - Definitions.

Act of God. An act that is direct, immediate, and by exclusive operation of the forces of nature, uncontrolled and uninfluenced by the power of man and without human intervention and is of such a character that it could not have been prevented or escaped from by any amount of foresight or prudence, or by any reasonable degree of care or diligence, such as lightning, tempests, perils of the seas, tornadoes, earthquakes, sudden death.

Caliper. The minimum trunk diameter of a replacement tree as measured at a predetermined required point of measurement. Trunk diameter for trees up to four inches shall be measured six inches above the soil line. All trees over four inches in diameter shall be measured 12 inches above the soil line.

Cross sectional area.

$$(Pi d^2)/4$$

d = diameter of tree (measured at diameter at breast height (DBH))

Pi = 3.1417 (rounded)

Dead tree. A tree which has lost its ability to absorb nutrients and has ceased producing live foliage or green wood during its normal growing season.

Deteriorated tree. A tree which is degenerated or damaged to the point where the death of the tree is imminent or to the point where the tree poses a significant hazard.

Diameter at breast height (DBH). Trunk diameter of tree measured four and one-half feet above soil level. If a tree forks within four and one-half feet of the soil line, each fork shall be considered a separate tree.

Diseased tree. A tree which is degenerated or damaged by a biological pathogen or pest to the point where the death of the tree is imminent or to the point where the tree poses a significant hazard.

Drip line. A line extending vertically and at right angles between the outermost portion of the tree crown and the ground.

Hatracking/Topping. To flat-cut the top of a tree or drastic removal, severing the leader or leaders; or pruning a tree by stubbing off mature wood; or reducing the total circumference or canopy spread not in conformance with the American National Standards Institute, A-300 standards or other accepted standards as published.

Historic tree. Any Live Oak (*Quercus virginiana*) or Bald Cypress (*Taxodium distichum*) 36 inches DBH or greater or any other tree which is 36 inches DBH or greater and is determined by the local governing body to be of such unique and intrinsic value to the general public because of its size, age, historic association, or ecological value as to justify this classification. Any tree in this county selected and duly designated a Florida State Champion, United States Champion or a World Champion by the American Forestry Association shall likewise be within this definition.

Mitigation. Actions including but not limited to planting of replacement tree(s) and/or contribution to a tree bank, required to be taken by a person to offset environmental impacts of permitted activities.

Replacement tree. A tree of Florida grade #1 or better quality, with a caliper and minimum height as determined by section 15(b) for replacement of trees other than historic and section 16.5 for replacement of historic trees. Replacement trees must be of a species on the established by city Resolution as may be amended from time to time approved tree list found in chapter 13, section 6.

Remove or removal. Actual or effective displacement of trees through killing, damaging or destroying.

Specialist. Person certified by the International Society of Arboriculture or having a degree in forestry management, horticulture or landscape architecture and having worked in the field of tree maintenance for at least four years.

Specimen tree. Species listed in section 16(a).

Tree. Any woody self-supporting plant characterized by having a single trunk or multistem trunk system with well-developed crown, capable of reaching ten feet high as measured from its base.

Tree bank. City account for purchase and installation of trees and irrigation in city parks, rights-of-way, and public open spaces.

[No Changes Sections 11– 16]

Section 10: - Permit requirements for tree removal.

- (a) It is hereby unlawful for any person to cut down, move, remove or destroy through damaging or to authorize the same, of any tree or natural vegetation referenced in this article without obtaining a tree removal permit in accordance with the provisions of this article. Failure to obtain a permit for tree removal may subject the party to penalties as set forth in section 22.6.

Section 16.5: - Historic tree protection requirements.

- (a) Upon receipt of an historic tree removal ~~request~~ permit application city staff shall inspect and determine whether or not a historic tree is healthy, deteriorated, diseased or dead. If the applicant is in disagreement with staff's determination as to the health of the tree then staff shall hire a specialist to determine whether the tree is healthy, deteriorated, diseased or dead. The specialist shall report to staff and not the applicant. However, the applicant shall pay the cost of the specialist. Any objections to the choice of specialists shall be heard by the environmental advisory board. On a finding of bias or other valid reason the environmental advisory board shall disqualify the specialist and choose another specialist. The new specialist shall report to staff and not the applicant. The applicant shall pay for the disqualified specialist and the new specialist.
- (b) Removal of historic trees on multifamily, commercial, industrial and institutional lots or parcels shall be mitigated by the party removing the trees with replacement trees or by a contribution to the tree bank or a combination of replacement trees and a contribution to the tree bank.
 - (1) Historic trees which are not diseased, deteriorated or dead shall be mitigated in an amount as established by resolution by city council. If a tree is removed without city staff having an opportunity to inspect the tree to determine whether the tree is healthy, deteriorated, diseased, or dead, then the tree shall be considered healthy and shall be mitigated in amount as established by resolution by city council. Failure to obtain a permit for tree removal may subject the party to penalties as set forth in section 22.6.
 - (2) Historic trees that are determined to be deteriorated and/or diseased shall be mitigated in an amount as established by resolution by city council.
 - (3) Historic trees determined to be dead by city staff or a specialist as proscribed in part (a) above shall require no mitigation.
 - (4) Replacement trees shall be a minimum of four and one-half-inch caliper measured 12 inches above the ground, at least 14 feet in height at time of planting.

- (5) The environmental advisory board (EAB) ~~may recommend is established as the body with the authority to decide~~ mitigation requirements for historic tree removal, provided by city staff, based upon the resolution adopted by city council, and after city council grants approval of historic tree removal. In the interest of flexibility and fairness, the environmental advisory board (EAB) may allow a party to mitigate the replacement of a historic tree through any combination of replacement trees, and/or contribution to the city's tree bank provided that the combination equals or exceeds the required percentage of the total cross sectional area of the removed historic tree as established by resolution by city council.
- (6) The city council shall establish by resolution the amount of replacement trees which shall be planted or the amount of money which shall be deposited in the tree bank in order to mitigate for removal of various sizes of historic trees.
- (c) Historic trees on single-family and two-family lots that are approved for removal by city council shall be replaced whenever the proposed removal will result in less trees than required for single and two-family residences as outlined in ~~section 5.5, Chapter 13.~~ Replacement trees for historic trees on single-family and two-family lots shall be a minimum of ~~one-inch caliper, at eight feet high~~ two-inch caliper, at ten-feet in height. Failure to obtain a permit for tree removal may subject the party removing the tree(s) to penalties as set forth in section 22.6.
- (d) City staff or an authorized representative of the city may allow removal of a historic tree in an emergency prior to city council approval in cases where such trees are diseased, dead, deteriorated or damaged by fire, windstorm, lightning, or other acts of God, and pose imminent danger to life or property. Whether a historic tree is diseased, dead, or damaged by fire, windstorm, lightning, or other acts of God shall be determined according to the process under part (b) of this section. In such a case, the item would go before city council after the fact, and mitigation would require approval by the environmental advisory board for lots other than single or two-family residential.

[No Changes Sections 17 – 20]

Section 20.5: – Tree Abuse.

- (a) Generally. Tree abuse is prohibited. Abused trees may not be counted toward fulfilling landscape requirements. The city may require the abused trees to be replaced in accordance with Chapter 9, Article II, of this code. Abused trees may subject the party removing the trees to penalties as set forth in section 22.6.
- (b) Prohibited acts. A tree shall be considered abused if a person takes an action so that one of the following occurs:
 - 1) Cutting upon a tree which alters the natural shape.
 - 2) Hatracking/topping as defined in Chapter 9, Article II, of this code.
 - 3) Trimming of more than one-third (1/3) of the tree canopy within a one-year period.
- (c) Exceptions. Exceptions to this section are as follows:
 - 1) Understory trees and any trees listed on the most recent edition of the Florida Exotic Pest Plant Council Invasive Plant List are not protected by this section.
 - 2) Utility line clearing in conformance with ANSI A-300 and ANSI Z133.1 safety standards and National Electrical Safety Code clearances does not constitute tree abuse.
 - 3) Trees severely damaged by hurricane, windstorm, flood, lightning or other natural phenomena does not constitute tree abuse.
- (d) Any party found to have abused any tree as described above shall be required to submit a tree removal permit application and either replace said tree and/or pay a mitigation fee to the City Tree Bank as set forth in section 22.6.

[No Changes Sections 21 – 22.5]

Section 22.6: - Penalties.

- (a) Any party found to have removed, or killed a historic tree without a permit, shall pay twice the amount of the regular permit fee which would have been due had the permit been obtained prior to commencing work, and shall be required to pay a mitigation fee to the City Tree Bank for each replacement tree which is not planted. The amount of such mitigation shall be as normally required by resolution of the City Council. The minimum specifications for historic tree replacement shall be in accordance with section 16.5 of this chapter. For each subsequent violation by the same property owner, the amount of such mitigation shall be twice the required mitigation amount. In addition, any party found to have removed, or killed a historic tree without a permit on multifamily, commercial, industrial and institutional lots or parcels shall also pay up to a \$5,000.00 fine in addition to the penalties listed above., ~~and shall be required to mitigate the cross sectional area of the tree removed as required by this article. Failure to mitigate the cross sectional area of a historic tree removed by permit or without a permit shall subject the party to a fine as required under section 1-8(a) of this code. For purposes of this section each day a party fails to mitigate the cross-sectional area of the tree removed shall constitute a separate offense.~~
- (b) Any party found to have removed any tree that is 6-inches or greater DBH that is not a historic tree without a permit shall pay twice the amount of the regular permit fee which would have been due had the permit been obtained prior to commencing work and shall provide mitigation as required by this code/and or resolution of the City Council for each replacement tree which is not planted. For each subsequent violation by the same property owner, the amount of such mitigation shall be twice the required mitigation amount.
- (c) Any party found to have abused any tree as outlined in section 20.5 of this chapter shall shall pay twice the amount of the regular permit fee which would have been due had the permit been obtained prior to commencing work and shall provide mitigation as required by this code and/or resolution of the City Council. For each subsequent violation by the same property owner, the amount of such mitigation shall be twice the required mitigation amount. If a historic tree is abused, the penalty in section 22.6(a) shall apply.
- (d) Nothing in this section shall be interpreted to limit enforcement of this article by any other remedy including but not limited to remedies provided in the land development code, the city ordinances or general law.
- (e) Penalty fees shall be waived for emergency work if the work was required to prevent or minimize property damage, or a life safety hazard caused by an act of God or natural phenomenon, if the City was closed for business at the time of the emergency, provided that the required permit and supporting documents confirming the emergency nature of the tree removal is applied for on the first working day thereafter. The waiving of penalty fees shall not waive replacement tree requirements and/or mitigation as may be required by this code.

EXHIBIT 2

Chapter 13

[No Changes Sections 1 – 5.5]

Section 6: - Landscape materials.

(a) *Landscape material selection.* The species of required landscape materials shall be selected based on the existing and neighboring vegetative communities, soil types, proposed function of the materials, cold tolerance, existence of utilities or overhead power lines and aesthetics. In addition, landscape materials shall be selected in accordance with the following.

- (1) A minimum of 75 percent of the required shade trees to be planted on any one site shall be native trees. A list of approved species is provided ~~under paragraph (b) below.~~ by separate Resolution as may be amended from time to time.
- (2) Aside from lawn areas, a minimum of 75 percent of the required landscape materials to be planted on any one site shall be drought or moderate drought ~~resistant~~ resistant plantings incorporated into a low or moderate water use zone. A list of approved plantings to satisfy this requirement is provided ~~under paragraph (b) below.~~ by separate Resolution as may be amended from time to time.
- (3) Landscape plans shall be designed to group landscape materials together into zones according to water use needs as follows:
 - (a) High water use zone.
 - (b) Moderate water use zone.
 - (c) Low water use zone.

Plant materials may be grouped with those associated with the same or a higher water use zone.

- (4) A maximum of 40 percent of the total landscape area may be planted with lawn grasses. Such grasses should be consolidated and limited to areas subject to pedestrian traffic or recreational use, where soil erosion control is needed, or where it will serve as a design unifier or some other practical use. Deferred parking and grass parking areas shall not be considered part of the total landscape area for purposes of calculating the allowable lawn percentage. Parks and recreation areas shall be exempt from this lawn percentage limitation.
- (5) A maximum of 20 percent of the landscape areas on a site may be covered with an impervious surface.
- (6) All planting beds shall be filled with a minimum of two inches of clean, weed free organic mulch, with three inches being the preferable mulch depth. A maximum of 25 percent of these mulch areas may consist of nonorganic decorative material such as crushed rock, gravel, marble, and other similar materials.

(b) *Minimum specifications.* All landscape material required to satisfy this code shall be Florida No. 1 Grade or better, according to the current Grades and Standards for Nursery Plants, State of Florida Department of Agriculture. In addition, all landscape material shall satisfy the ~~following~~ minimum specifications established by Resolution as may be amended from time to time.

- (1) *Shade trees.* Shade tree species shall be a minimum of two-inch caliper and ten feet in height at the time of planting. For purposes of this paragraph, the caliper shall be measured at six inches above the ground for trees up to four inches in diameter at planting and 12 inches above the ground for trees over four inches in diameter at planting. Palms may be used for up to 25 percent of required shade trees when planted in the quantities specified in the ~~chart below~~ established landscape material Resolution. Understory trees may be substituted for up to 25 percent of required shade trees when planted in groups of two or more per required tree. All shade trees shall be staked and guyed at the time of planting in accordance with the details of this section. ~~Below is a list of approved native shade trees and palm tree equivalents.~~

Common Name		Botanical Name
(X)	Ash, Green (D)	Fraxinus pennsylvanica
	Ash, Water (D)	Fraxinus caroliniana

	Bay (E)	Persea spp.
	Bay, Loblolly (E)	Gordonia lasianthus
(XX)	Camphor Tree (E)	Cinnamomum camphora
	Cypress, Bald (D)	Taxodium distichum
	Cypress, Leyland (E)	Cyressocyparis leylandii
	Cypress, Pond (D)	Taxodium ascendens
(X)	Elm, American (D)	Ulmus americana
(XX)	Elm, Chinese (D)	Ulmus parvifolia
(XX)	Golden Rain Tree (D)	Koelreuteria elegans
(XX)	Hickory, Pignut (D)	Carya glabra
	Hickory, Water (D)	Carya aquatica
(XX)	Loquat, Japanese Plum (E)	Eriobotrya japonica
(XX)	Magnolia, Southern (E) Maple, Red (D) Maple, Silver (D)	Magnolia grandiflora Acer rubrum Acer saccharinum
(XX)	Oak, Laurel (E)	Quercus laurifolia
(XX)	Oak, Live (E)	Quercus virginiana
(XX)	Oak, Pin (E)	Quercus palustris
(XX)	Oak, Shumard Red (D)	Quercus shumardii
(XX)	Oak, Turkey (D)	Quercus laevis
(XX)	Oak, Water (E)	Quercus nigra
(XX)	Oak, Willow (E)	Quercus phellos
(XX)	Palm, Cabbage (3)	Sabal palmetto

{XX}	Palm, Canary Island Date (1)	Phoenix canariensis
{XX}	Palm, Chinese Fan (1)	Livistona chinensis
{XX}	Palm, European Fan (1)	Chamerops humilis
{XX}	Palm, Medjool Date (1)	Phoenix dactylifera "Medjool"
{XX}	Palm, Pindo (1)	Butia capitata
{XX}	Palm, Queen (3)	Syagrus romanzoffiana
{XX}	Palm, Washington (3)	Washingtonia robusta
{XX}	Palm, Wild Date (1)	Phoenix sylvestris
{XX}	Palm, Windmill (3)	Trachycarpus fortunei
{XX}	Pine, Loblolly (E)	Pinus taeda
{XX}	Pine, Long-leaf (E)	Pinus palustris
{XX}	Pine, Slash (E)	Pinus elliottii
{XX}	Pine, Sand (E)	Pinus clausa
{XX}	Sugarberry (D)	Celtis laevigata
	Sweetbay (D)	Magnolia virginiana
{XX}	Sweetgum (D)	Liquidambar styraciflua
	Sycamore (D)	Platanus occidentalis
	Willow, Weeping (D)	Salix babylonica

KEY:

(X) — Xeriscape moderate drought tolerance

{XX} — Xeriscape high drought tolerance

(D) — Deciduous

(E) — Evergreen

(3) — Number of palm trees equivalent to one shade tree

- (2) *Understory trees.* Understory tree species shall be a minimum of one and one-half-inch caliper and eight feet in height at the time of planting. For purposes of this paragraph, the caliper shall be measured at six inches above the ground for trees up to four inches in diameter at planting and 12 inches above the ground for trees over four inches in diameter at planting. Multi-trunk species shall be full and upright. All understory trees shall be staked and guyed at the time of planting in accordance with the details of this section. ~~Below is a list of approved understory trees.~~

Common Name		— Botanical Name
(XX)	Cedar, Red (E)	<i>Juniperus virginiana</i>
(X)	Cherry Laurel (E)	<i>Prunus caroliniana</i>
(XX)	Crape Myrtle (D)	<i>Lagerstroemia indica</i>
(XX)	Dogwood, Flowering (D)	<i>Cornus florida</i>
(XX)	Elm, Winged (D)	<i>Ulmus alata</i>
(XX)	Holly, American (E)	<i>Ilex opaca</i>
(XX)	Holly Dahoon (E)	<i>Ilex cassine</i>
(XX)	Holly, East Palatka	<i>Ilex attenuata</i>
(XX)	Holly, Yaupon (E)	<i>Ilex vomitoria</i>
(XX)	Jerusalem Thorn (D)	<i>Parkinsonia aculeata</i>
(XX)	Oak, Myrtle (E)	<i>Quercus myrtifolia</i>
(XX)	Oak, Sand Live (E)	<i>Quercus geminata</i>
(XX)	Oleander (E)	<i>Nerium oleander</i>
(XX)	Palm, Chinese Fan	<i>Livistona chinensis</i>
(XX)	Palm, Pindo	<i>Butia capitata</i>
(XX)	Palm, Pygmy Date	<i>Phoenix roebelinii</i>
(XX)	Palm, Windmill	<i>Trachycarpus fortunei</i>
(X)	Podocarpus, Nagi (E)	<i>Podocarpus nagi</i>

(X)	Podocarpus, Yew (E)	Podocarpus macrophyllus
	Privet, Glossy (E)	Ligustrum lucidum
(X)	Privet, Japanese (E)	Ligustrum japonicum
(XX)	Redbud (D)	Cercis canadensis
(XX)	Wax Myrtle (E)	Myrica cerifera
	Willow, Coastal Plain (E)	Salix caroliniana

-

KEY:

(X) — Xeriscape moderate drought tolerance

(XX) — Xeriscape high drought tolerance

(D) — Deciduous

(E) — Evergreen

- (3) *Shrubs*. Shrubs shall be a minimum of three-gallon container 18 to 24 inches in height immediately after planting. Shrubs shall be planted no more than 30 inches apart on centers, and in groups of no less than three each. Alternate spacing and grouping, when appropriate to ensure proper growth and screening, may be approved through the administrative variance procedure specified in section 9 of this chapter. Below is a list of approved shrubs. Variegated and other similar variations of species shall also be permitted provided identical dimensional and functional results are achieved.

Common Name		— Botanical Name
(X)	Arborvitae, Oriental (E)	Platycladus orientalis
	Azalea (E)	Rhododendron hybrids
(X)	Boxwood, Japanese (E)	Buxus microphylla
(X)	Crape Myrtle (D)	Lagerstroemia indica
(X)	Cypress, Leylandii (E)	Cyressocyparis leylandii
(X)	Feijoa (E)	Feijoa sellowiana
(X)	Holly, Ambigua (D)	Ilex ambigua
(X)	Holly, American (E)	Ilex opaca

{X}	Holly, Burford (E)	Ilex cornuta
{XX}	Holly, Yaupon (E)	Ilex vomitoria
{XX}	Juniper (E)	Juniperus spp.
{XX}	Palmetto, Saw	Serenoa repens
{XX}	Palmetto, Scrub	Sabal etonia
{X}	Photinia, Red-leaf (E)	Photinia glabra
{X}	Photinia, Red-tip Fraserii (E)	Photinia fraserii
{X}	Pittosporum, Japanese (E)	Pittosporum tobira
{X}	Podocarpus, Nagi (E)	Podocarpus nagi
{XX}	Podocarpus, Yew (E)	Podocarpus macrophyllus
{X}	Privet, Chinese (E)	Ligustrum sinense
{X}	Privet, Florida (D)	Forestiera segregata
{XX}	Privet, Japanese (E)	Ligustrum japonicum
{XX}	Sage, Texas (E)	Leucophyllum frutescens
{XX}	Silverthorn (E)	Elaeagnus pungens
	Viburnum, Sandankwa (E)	Viburnum suspensum
{X}	Viburnum, Sweet (E)	Viburnum odoratissimum
{XX}	Wax Myrtle (E)	Myrica cerifera

KEY:

{X} — Xeriscape moderate drought tolerance

{XX} — Xeriscape high drought tolerance

{D} — Deciduous

{E} — Evergreen

- (4) *Ornamentals*. Ornamental plantings ~~as defined below~~, shall be minimum one-gallon container grown species, unless otherwise noted ~~below in the landscape material Resolution~~, and spaced on centers necessary to provide 100 percent aerial coverage within a maximum of two years, applicable to each plant type. Where this code permits shrub equivalency, the quantity listed in the ~~chart below~~ landscape materials Resolution shall be required to equal one shrub. ~~The following is a list of approved ornamentals.~~ Variegated varieties and other similar variations shall also be permitted provided identical dimensional and functional results are maintained.

Common Name		Botanical Name
(XX)	Asparagus Fern (3)*	Asparagus densiflorus
(X)	Cast Iron Plant (2)	Aspidistra elatior
(XX)	Coontie (1)**	Zamia floridana
(X)	Crinum Lily (1)**	Crinum asiaticum
(XX)	Crown of Thorns (3)**	Euphorbia milli
(XX)	Day Lily (3)	Hemerocallis spp.
(X)	Garlic, Society (3)	Tulbaghia violacea
(XX)	Hawthorn, Indian (1)**	Rapheolepis indica
(X)	Jasmine, Confederate (4)**	Trachelospermum jasminoides
(X)	Jasmine, Small-leaf Confederate (4)	Trachelospermum asiaticum
(XX)	Juniper (2)**	Juniperus spp.
(XX)	Lily Turf, Creeping (4)	Liriope spicata
(XX)	Liriope (3)	Liriope muscari
(X)	Mondo Grass (4)	Ophiopogon japonicus
(XX)	Morning Glories (4)	Ipomoea spp.
(XX)	Palm, Sago (1)**	Cycas spp.
(X)	Pampas Grass (1)**	Cortaderia selloana
(X)	Pittosporum, Dwarf (1)**	Pittosporum tobira "Wheeleri"
(XX)	Sunflower, Beach (2)	Helianthus debilis

KEY:

(X) ~~— Xeriscape moderate drought tolerance~~

(XX) ~~— Xeriscape high drought tolerance~~

* ~~— Number in parentheses denotes shrub equivalency~~

** ~~— Minimum three-gallon container growth specification~~

- (5) *Lawn grass.* All grassed areas, except large open turf areas such as retention area bottoms and play fields, shall be sodded with any species of grass common to Central Florida. The use of St. Augustine sod is recommended for areas subject to regular manicuring and heavy pedestrian traffic. Generally, this type of grass should be used in areas which are viewed at a close distance. Bahia sod is recommended for retention areas, slopes, repair of rights-of-way, overflow grassed parking, play fields and other large turf areas which are not generally manicured. ~~Below is a list of approved lawn grasses.~~

Common Name		Botanical Name
(X)	Bahia	Paspalum notatum
(X)	Bermuda	Cynodon dactylon
	Centipede	Eremochloa ophiuroides
	St. Augustine	Stenotaphrum secundatum
(X)	Zoysia	Zoysia spp.

The city may approve other lawn grasses in addition to those listed ~~above~~ in the landscape materials Resolution, providing that documentation defining the characteristics of the proposed grass, including appearance, growing requirements, and growth rate, substantiate its suitability for its intended purpose.

- (6) *Mulch.* All planting beds shall be filled with a minimum of two inches of clean, weed free organic mulch, with three inches being the preferable mulch depth. A maximum of 25 percent of these mulch areas may consist of nonorganic decorative material such as crushed rock, gravel, marble, and other similar materials.
- (7) *Alternative landscaping materials.* The city may approve alternative landscape materials to satisfy xeriscape requirements when such materials are determined to be drought resistant. Determination shall be based on certified documentation provided by a registered landscape architect or printed in a recognized professional or informational publication.
- (8) *Prohibited vegetative species:* ~~The following~~ Prohibited species identified in the landscape materials Resolution shall not be included in any landscaping design due to their aggressive, invasive nature:.

Common Name	— Botanical Name
Australian Pine	Causuarina equisetifolia
Australian Pine	Causuarina leipeconphloia

Brazilian Pepper	Schinus terebinthifolius
Pink Tree	Maleleuca leucadendron

In addition, no plant species prohibited by the Florida Department of Environmental Protection (DEP) shall be included in any landscape design.

[No Changes Subsections (c), (d)]

EXHIBIT 3

RESOLUTION NO. 02-71

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ESTABLISHING MITIGATION TABLES FOR THE REPLACEMENT OF HISTORIC TREES; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; PROVIDING SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orange, Florida, has required mitigation for the removal of historic trees pursuant to Ordinance No. 2002-36; and

WHEREAS, the table is intended to assist the public in determining what mitigation is required for removal of historic trees;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. In accordance with Chapter 9, Article II, Section 16.5 (b) (1) of the City of Port Orange Land Development Code. Historic trees which are not deteriorated, diseased or dead shall be mitigated in a monetary amount or in a quantity of replacement trees which shall equal 15% of the cross sectional value as shown in Exhibit A.

Section 2. In accordance with Chapter 9, Article II, Section 16.5 (b) (2) of the City of Port Orange Land Development Code. Historic trees which are deteriorated or diseased shall be mitigated in a monetary amount or in a quantity of replacement trees which shall equal 5% of the cross sectional value as shown in Exhibit B.

Section 3. All resolutions or parts of resolutions in conflict with the provisions of

EXHIBIT A HEALTHY HISTORIC TREES**15% CROSS SECTIONAL AREA REPLACEMENT****MITIGATION FOR HISTORIC TREES ON MULTI-FAMILY, COMMERCIAL, INDUSTRIAL OR INSTITUTIONAL LOTS**

A	B	C	D
SIZE OF TREE BEING REMOVED	15% CROSS SECTIONAL AREA IN SQUARE INCHES	# OF 4 1/2" CALIPER TREES REQUIRED FOR REPLACEMENT	TREE BANK CONTRIBUTION*
36	152.68	10	B x \$27 = \$ 4,122
37	161.28	10	B x \$27 = \$ 4,355
38	170.12	11	B x \$27 = \$ 4,593
39	179.19	11	B x \$27 = \$ 4,838
40	188.50	12	B x \$27 = \$ 5,089
41	198.04	12	B x \$27 = \$ 5,347
42	207.82	typo -39 13	B x \$27 = \$ 5,611
43	217.83	14	B x \$27 = \$ 5,881
44	228.08	14	B x \$27 = \$ 6,158
45	238.57	15	B x \$27 = \$ 6,441
46	249.29	16	B x \$27 = \$ 6,731
47	260.24	16	B x \$27 = \$ 7,027
48	271.43	17	B x \$27 = \$ 7,329
49	282.86	18	B x \$27 = \$ 7,637
50	294.53	19	B x \$27 = \$ 7,952
51	306.42	19	B x \$27 = \$ 8,273
52	318.56	20	B x \$27 = \$ 8,601
53	330.93	21	B x \$27 = \$ 8,935
54	343.53	22	B x \$27 = \$ 9,275
55	356.38	22	B x \$27 = \$ 9,622
56	369.45	23	B x \$27 = \$ 9,975
57	382.76	24	B x \$27 = \$ 10,335
58	396.31	25	B x \$27 = \$ 10,700
59	410.10	26	B x \$27 = \$ 11,073
60	424.12	27	B x \$27 = \$ 11,451
61	438.37	28	B x \$27 = \$ 11,836
62	452.86	28	B x \$27 = \$ 12,227
63	467.59	29	B x \$27 = \$ 12,625
64	482.55	30	B x \$27 = \$ 13,029
65	497.75	31	B x \$27 = \$ 13,439
66	513.18	32	B x \$27 = \$ 13,856
67	528.85	33	B x \$27 = \$ 14,279
68	544.75	34	B x \$27 = \$ 14,708
69	560.89	35	B x \$27 = \$ 15,144
70	577.27	36	B x \$27 = \$ 15,586
71	593.88	37	B x \$27 = \$ 16,035
72	610.73	38	B x \$27 = \$ 16,490
73	627.81	39	B x \$27 = \$ 16,951
74	645.13	41	B x \$27 = \$ 17,418
75	662.68	42	B x \$27 = \$ 17,892

* \$27-accepted national value per square inch

EXHIBIT B DISEASED OR DETERIORATED HISTORIC TREES

5% CROSS SECTIONAL AREA REPLACEMENT

MITIGATION FOR HISTORIC TREES ON MULTI-FAMILY, COMMERCIAL, INDUSTRIAL OR INSTITUTIONAL LOTS

A	B	C	D	
SIZE OF TREE BEING REMOVED	5% CROSS SECTIONAL AREA IN SQUARE INCHES	# OF 4 1/2" CALIPER TREES REQUIRED FOR REPLACEMENT	TREE BANK CONTRIBUTION*	
36	50.89	3	B x \$27 =	\$ 1,374
37	53.76	3	B x \$27 =	\$ 1,452
38	56.71	4	B x \$27 =	\$ 1,531
39	59.73	4	B x \$27 =	\$ 1,613
40	62.83	4	B x \$27 =	\$ 1,696
41	66.01	4	B x \$27 =	\$ 1,782
42	69.27	4	B x \$27 =	\$ 1,870
43	72.61	5	B x \$27 =	\$ 1,960
44	76.03	5	B x \$27 =	\$ 2,053
45	79.52	5	B x \$27 =	\$ 2,147
46	83.10	5	B x \$27 =	\$ 2,244
47	86.75	5	B x \$27 =	\$ 2,342
48	90.48	6	B x \$27 =	\$ 2,443
49	94.29	6	B x \$27 =	\$ 2,546
50	98.18	6	B x \$27 =	\$ 2,651
51	102.14	6	B x \$27 =	\$ 2,758
52	106.19	7	B x \$27 =	\$ 2,867
53	110.31	7	B x \$27 =	\$ 2,978
54	114.51	7	B x \$27 =	\$ 3,092
55	118.79	7	B x \$27 =	\$ 3,207
56	123.15	8	B x \$27 =	\$ 3,325
57	127.59	8	B x \$27 =	\$ 3,445
58	132.10	8	B x \$27 =	\$ 3,567
59	136.70	9	B x \$27 =	\$ 3,691
60	141.37	9	B x \$27 =	\$ 3,817
61	146.12	9	B x \$27 =	\$ 3,945
62	150.95	9	B x \$27 =	\$ 4,076
63	155.86	10	B x \$27 =	\$ 4,208
64	160.85	10	B x \$27 =	\$ 4,343
65	165.92	10	B x \$27 =	\$ 4,480
66	171.06	11	B x \$27 =	\$ 4,619
67	176.28	11	B x \$27 =	\$ 4,760
68	181.58	11	B x \$27 =	\$ 4,903
69	186.96	12	B x \$27 =	\$ 5,048
70	192.42	12	B x \$27 =	\$ 5,195
71	197.96	12	B x \$27 =	\$ 5,345
72	203.58	13	B x \$27 =	\$ 5,497
73	209.27	13	B x \$27 =	\$ 5,650
74	215.04	14	B x \$27 =	\$ 5,806
75	220.89	14	B x \$27 =	\$ 5,964

* \$27-accepted national value per square inch