Chapter 23 PROTECTION OF TREES AND THE NATURAL ENVIRONMENT[1]

ARTICLE I. IN GENERAL

Sec. 23-1. Purpose and intent.

(a) ~~(a)~~ *Purpose.* The provisions of this chapter are established for the purpose of enhancing, conserving, restoring, protecting and preserving the natural environment, specifically related to ~~trees~~tree canopy, ~~stratified~~ understory vegetation, and native coastal dune vegetation ~~that~~. These elements provide Atlantic Beach with critical ecosystem ~~good and services and co-benefits for shade of critical areas, stabilize soils, sequester carbon, improve air quality, reduce runoff and enhance property values.~~ services benefits. Priority shall be given to the protection and preservation of existing resources.

~~The~~These tangible benefits of healthy trees in our community have been well documented to::

- Reduce flooding and stormwater runoff
- Improve air quality and reduce noise pollution
- Buffer wind and reduce storm impacts
- Provide shade and cooling
- Enhance aesthetics, walkability, and wildlife habitat
- Increase property values

Our unique maritime forest encompasses all of the trees within the ~~city~~City and is an integral and uniquely valuable part of the ~~city~~City. The maritime forest ~~creates beauty, provides a home for wildlife, functions as~~is a critical element of the water management system, and is confirmed to enhance overall property values.

(b) *Intent.* The provisions of this chapter are intended:

(1) To establish efficient and effective procedures, regulations and guidelines for the protection of the natural environment.

~~[1]Editor's note(s)—Section 2(Exh. A) of Ord. No. 95-21-119, adopted July 12, 2021, repealed Ch. 23 in its entirety and enacted a new ch. 23 to read as herein set out. Former ch. 23, §§ 23-1—23-4, 23-8, 23-11—23-14, 23-21—23-26, 23-30—23-37, 23-40, 23-41, 23-46—23-52, pertained to protection of trees and native vegetation, and derived from Ord. No. 95-09-98, § 2(Exh. A), adopted Jan 12, 2009; Ord. No. 95-10-101, § 2(Exh. A), adopted Feb. 22, 2010; Ord. No. 95-15-109, § 1, adopted May 11, 2015; Ord. No. 5-17-64, § 1, adopted July 24, 2017; Ord. No. 5-18-67, §§ 1—3, adopted Jan. 14, 2019; and Ord. No. 5-19-68, § 3, adopted Feb. 11, 2019.~~

~~Cross reference(s)—Streets, sidewalks and other public places, Ch. 19.~~

(2) To promote and sustain community values by providing for an aesthetically pleasing environment where a healthy maritime forest is maintained and regenerated.

(3) To protect natural systems and avoid impairment of their natural functions including the provision of shade and cooling on lots ~~and development parcels~~, sidewalks, and streets ~~and other public places~~.

(4) To provide protection for environmentally sensitive areas.

(5) To ensure protection of healthy trees, recognizing that regulated trees that are lost reduce the ~~climate related~~ resilience and overall economic value of the community, and provide for replacement and/or relocation of trees which are permitted to be removed, as set forth herein.

(6) Priority shall be given to the protection and preservation of the existing trees and natural environment.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-2. Applicability.

All lands within the City of Atlantic Beach shall be subject to the provisions of this chapter.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-3. Relationship to land development regulations and the comprehensive plan.

This chapter contains specific and detailed provisions intended to implement the related policies as set forth in the comprehensive plan, as may be amended. The provisions of this chapter shall be implemented in coordination with chapter 24, Land Development Regulations, of this Code of Ordinances, and in the case of any conflict between the two (2) chapters, the provisions establishing the higher standard shall prevail.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-4. Amendments to this chapter.

The ~~city commission~~City Commission shall have the authority to amend this chapter as needed to implement its intent, or to implement objectives and policies of the comprehensive plan, or otherwise enact updates as may be appropriate. Amendment to this chapter shall be made in accordance with the established procedures for amending any portion of this Code of Ordinances.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Secs. 23-5—23-7. Reserved.

ARTICLE II. LANGUAGE AND DEFINITIONS

Sec. 23-8. Definitions.

For purposes of this chapter, the following terms shall have the meanings as set forth within this section, and where interpretation is required, shall be interpreted so as to give these terms the meaning they have in common usage. Where applicable and appropriate to the context, definitions as set forth within chapter 24, Land Development Regulations, of this Code of Ordinances, Florida State Building Codes or within Florida Statutes, as these may be amended, shall be used in conjunction with these terms and the requirements of this chapter.

Administrator shall mean the representative of the ~~city~~City as designated by the ~~city manager~~City Manager to oversee administration of this chapter.

Adversely affected person shall mean a person who is suffering or will suffer an adverse effect to an interest protected or furthered by this chapter. The alleged adverse effect may be shared in common with other members of the community but must exceed in degree the general interest in community good shared by all persons in the community.

After-the-fact permit shall mean a permit issued after a violation has occurred for the primary purpose of correcting the violation (if the activity would have been permittable) or for the purpose of bringing the violator into compliance with existing regulations.

Appeal shall mean a request for the rehearing or review of a decision made pursuant to any provision of this chapter.

Applicant shall mean the person(s) subject to or seeking a tree or vegetation removal permit as required by the provisions of this chapter.

Approval shall mean written permission in the form of a tree or vegetation removal permit from the administrator pursuant to a duly executed application submitted on a form as provided by the ~~city~~City, authorizing the applicant to proceed with an action as proposed within the application. Such approval may consist of limitations or conditions specific to the project.

Arborist shall mean any person who is ~~certified~~Certified by the International Society of Arboriculture (ISA) as an arborist and a member in good standing of the ISA.

Arborist report shall mean a report that is signed by ~~an~~aertified arborist, as defined above, and that at a minimum clearly states the arborist's name, contact information, and qualifications, and identifies ~~the site address and each individual tree~~each individual tree in question at the site along with any specific and sufficiently detailed evaluation to permit confirmation of the assessment.

Atlantic Beach Prohibited Species List shall consist of invasive ~~exotic~~ species listed by the ~~city~~City in section 23-35(b). This list shall be updated on an as needed basis.

Atlantic Beach Recommended Species List shall consist of species that are best adapted to the local ecosystem, which may provide the most desirable characteristics to the community. Replacement credit may only be given for trees on the recommended species list in section 23-33(f)(1)f.

Buildable area shall mean the area of a site, parcel or lot, excluding any area which is not eligible for the issuance of a building permit by the ~~city~~City, such as building setback areas, shoreline protection buffers, coastal construction setback areas, wetlands and other similar areas

required pursuant to the applicable provisions of this chapter and the land development regulations.

Caliper shall mean the diameter of a tree trunk measured at a point six (6) inches above the existing grade or proposed grade for trees four (4) inches in trunk diameter or smaller, and twelve (12) inches above the existing grade or proposed planted grade for trees larger than four (4) inches in trunk diameter. Caliper measurement is used in reference to nursery stock for new plantings. For trees with multiple trunks, the sum of the caliper measurements of up to the four (4) largest trunks shall be used.

Canopy shall mean the horizontal extension of a tree's branches in all directions from its trunk.

City shall mean the City of Atlantic Beach.

Clear trunk shall mean the height of a palm tree measured from the ground to the point where the lowest green frond is attached to the trunk.

Coastal dune vegetation shall mean the naturally-occurring, salt-tolerant native species of grasses, shrubs, vines and trees that stabilize the dunes by holding existing sand and that serve to repair the dunes of damage inflicted by either natural phenomena or human impact by trapping wind-blown sand.

Critical Root Zone (CRZ) shall mean the most vital roots that trees need for survival and that tend to exist in the top 6-18 inches of soil in AB and which cannot be compacted, cut, or damaged.

Crown shall mean all portions of a tree, excluding the trunk and roots; specifically, the branches, leaves, flowers, and fruit that grow above ground.

Designated maritime species shall mean those species that are among the most valuable and desirable species in the ~~city~~City and shall include the following species:

(1) ~~(1)~~ American Sycamore (Platanus occidentalis)

(2) Bald Cypress (Taxodium distichum).

(~~2~~3) Cedar ~~(~~ Juniperus siliciola~~)~~ (Southern Red Cedar), J. virginiaba (Eastern Red Cedar).

(~~3~~4) Elm ~~(~~ Ulmus alata~~)~~ (Winged Elm), Ulmus American floridana (Florida Elm).

~~(4) Live Oak (Quercus virginiana).~~

~~(5)~~ (4) Hickory ~~(~~ Carya Illinoensis~~)~~ (Pecan), C. tomentosa (Mockernut), C glabra (Pignut Hickory).

(~~6~~5) Loblolly bay (Gordania lasianthus).

(~~7~~6) Magnolia ~~(~~ Magnolia grandiflora~~)~~ (Southern Magnolia~~)~~), Magnolia virginiana (Sweetbay Magnolia)

(~~8~~7) Maples ~~(~~ Acer rubrum (Red Maple), Acer Barbatum (Florida Maple)

(8) Oaks - Quercus virginiana (Live Oak), Quercus michauxii (Swamp Chestnut Oak)

(9) Tupelo (Nyssa sylvatica)

(10) Pine - Pinus taeda (Loblolly) (pinus taeda), (Long-leaf) (), Pinus palustris), (Pond) ((Long Leaf), Pinus Serotina (Pond)

(11) Sweetgum (Liguidambar styraciflua)

Developed area shall mean that portion of a site upon which any building, structure, pavement, or stormwater facility is placed.

Developed lot shall mean any parcel upon which any building, structure, pavement or stormwater facility exists or is proposed but which does not fall under the definition of new construction or vacant lot.

Development or *development activity* shall mean any alteration of the natural environment which requires the approval of a development or site plan and issuance of a development permit; shall also mean the removal of any regulated trees or vegetation, including without limitation that carried on in conjunction with a forest management program, and the removal of regulated trees and vegetation incidental to the development of land or to the marketing of land for development and shall also include activities defined as development with section 24-17 of this Code of Ordinances.

Diameter at breast height (DBH) shall mean the outside bark diameter of a tree measured at a height of fifty-four (54) inches above the existing ground level. Trees with gross abnormalities or buttressing at the breast height should be measured above or immediately adjacent to the irregularity. Trees that fork at or above breast height should be measured below breast height and recorded as a single trunk. For trees that fork below breast height or for trees with multiple trunks, the sum of up to the four (4) largest trunks shall be used.

Diseased tree shall mean a tree with any fungal, bacterial, or viral infection that will may result in the near term death of the tree or has progressed to the point that treatment will not prevent the death of the tree, as determined by the ~~administrator, forester, or~~ certified arborist.

Dripline shall mean the imaginary vertical plumb line that extends downward from the tips of the outermost tree branches and intersects with the ground.

Ecosystem goods and services shall mean those goods and services that provide for health, social, cultural, and economic needs and benefit all living organisms including plants, animals and humans. Examples of ecosystem goods include clean air and abundant fresh water. Examples of ecosystem services include purification of air and water, maintenance of biodiversity, decomposition of wastes, soil and vegetation generation and renewal, pollination of crops and natural vegetation, groundwater recharge through wetlands, seed dispersal, greenhouse gas mitigation, and aesthetically pleasing landscapes. The products and processes of ecological goods and services are complex and occur over long periods of time and the concern is that we are losing them at an unsustainable rate.

Environmentally sensitive areas shall include lands, waters or areas within the City of Atlantic Beach which meet one (1) or more of the following criteria:

(1) Wetlands determined to be jurisdictional, and which are regulated by the Florida Department of Environmental Protection (FDEP), the U.S. Army Corps of Engineers, or the St. Johns River Water Management District (SJRWMD);

(2) Estuaries or estuarine systems;

(3) Outstanding Florida Waters as designated by the State of Florida and natural water bodies;

(4) Areas designated pursuant to the Federal Coastal Barrier Resource Act (PL97-348), and those beach and dune areas seaward of the coastal construction control line;

(5) Areas designated as conservation on the future land use map;

(6) Essential habitat to listed species as determined by approved methodologies of the Florida Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, the U.S. Fish and Wildlife Service, and the FDEP.

Equivalent value shall mean a monetary amount reflecting the cost of vegetation to be replaced.

Excavation shall mean the act of digging, cutting or scooping soil or in any way changing the existing grade of the land. See "Grading" also.

~~*Excessive pruning* shall mean the substantial alteration of a tree such that there is irreversible removal and/or damage of more than twenty-five (25) percent of the natural shape or form of a tree.~~

~~*Exotic* shall mean a plant species that was introduced to Florida, either purposefully or accidentally, from a natural geographic range outside of Florida.~~

~~*Florida licensed landscape architect* shall mean a person who holds a license to practice landscape architecture in the State of Florida.~~

Grading shall mean the placement, removal or movement of earth, often by use of mechanical equipment on a property. See "Excavation" also.

Ground cover small means a plant material which reaches an average maximum height of not more than eighteen (18) inches at maturity.

Grubbing means the effective removal of understory vegetation from a site which shall require a permit even if this does not include the removal of any trees with DBH greater than three (3) inches.

Hardwood shall mean an angiosperm, a flowering tree or a broad-leaved tree, as distinguished from a gymnosperm or cone-bearing tree.

Hazard or *hazardous* shall mean a danger or risk of bodily injury or property damage.

Heritage tree shall mean any designated ~~maritime species~~non-invasive tree that is thirty (30) inches DBH or greater and declared by the ~~city commission~~City Commission to be of unique or intrinsic value due to its age, size, species, and/or cultural, ecological or historical significance or some other contribution to the ~~city's~~City's or a neighborhood's character and which is in good condition, as determined by an arborist; also, any tree designated as a Florida State Champion, United States Champion, or World Champion by the American Forestry Association which has

been designated to be a ~~heritage~~Heritage tree by the ~~city commission~~City Commission. Heritage trees may be located within parks or other public property. On private property, ~~heritage~~Heritage trees must be voluntarily nominated by the property owner. The ~~city~~City administrator shall keep a record of all ~~heritage~~Heritage trees so designated and their location on the City's website.

Historic corridor shall mean a tree lined roadway or portion thereof that exhibits special historic, architectural, or cultural value to the citizens of the ~~city~~City as declared by the ~~city commission.~~

~~*Indigenous* shall mean a plant species naturally occurring within a specific habitat or biogeographical region prior to significant human impacts. See "Native" also~~City Commission.

International Society of Arboriculture (ISA) serves the tree care industry as a membership association and a credentialing organization that promotes the professional practice of arboriculture. ISA focuses on research, technology, and education to advance best tree care practices and deliver educational publications, services, events, and credentials that provide opportunities for tree care professionals to develop their knowledge, skills, and arboriculture expertise.

Invasive ~~exotic~~ plant shall mean ~~an exotic plant species that has escaped cultivation, naturalized, and established in a natural area allowing it to aggressively expand and reproduce on its own, and subsequently, alter native plant communities by out-competing for resources such as light, nutrients, water and space, killing native species, or otherwise adversely affecting natural ecosystems. Invasive exotic plants are~~ those plants recognized on the Florida Noxious Weed and Invasive Plants List (F.A.C. 5B-57.007~~)~~), Florida Invasive Species Council List of Invasive Plant Species, or listed on the Atlantic Beach Prohibited Species List that are not native to our specified geographic area and can cause environmental or economic harm or harm human health.

Landscape materials shall mean living material, including trees, shrubs, vines, lawn grass, and ground cover; landscape water features; and nonliving durable material commonly used in landscaping, including rocks, pebbles, sand, and brick pavers, but excluding impervious surfaces (pavement).

~~*Legacy tree*~~*Licensed landscape architect* shall mean a ~~tree that is~~person who holds a ~~designated maritime species, as defined~~license to practice landscape architecture in ~~this chapter, and that is ten (10) inches DBH or greater.~~the State of Florida.

Maritime forest shall mean the collection of trees, to include its canopy, the understory, and ground cover in and around the ~~city~~City, including park and street trees on public property and trees on private property.

Mitigation shall mean prorated payment for trees removed, either in terms of replacement trees (newly planted), relocated trees, or preserved trees, or alternatively, deposit of a cash equivalent value in the ~~tree conservation fund~~Tree Trust Fund.

Native shall mean a plant species occurring naturally within the ~~city boundaries prior to European contact according to the best available scientific and historical documentation. More specifically, it includes those species understood as indigenous, occurring in natural associations in habitats that existed prior to significant human impacts and alterations of the landscape~~geographic area.

Naturalized exotic shall mean an exotic species that sustains itself outside cultivation.

New construction shall mean the construction of a new principal building on a lot. For the purposes of this chapter, this definition does not include construction proposed on vacant lots. This definition shall include construction proposed on lots that have an active permit for demolition of the principal building; lots where the principal building has been demolished but no building permit for a new principal building has been issued; and where trees are proposed to be removed or relocated in preparation for demolition or development of a principal building.

~~*Nondevelopment activity* shall mean any alteration of the natural environment which does not require development plan approval or issuance of a building permit, but which would include the proposed removal or destruction of any trees or vegetation regulated by this chapter.~~

~~*Nuisance* shall mean any tree, shrub, bush, grass or ground cover, or other woody vegetation, on public or private property which is endangering or which in any way may endanger the public health, safety, security or usefulness of any public street, public utility line or sidewalk; also, any tree, shrub, bush, grass or ground cover, or other woody vegetation with an infectious disease or insect problem.~~

Non-native shall mean a plant species that was introduced to Florida, either purposefully or accidentally, from a natural geographic range outside of Florida.

Noxious shall mean a plant that can directly or indirectly injure or cause damage to crops (including nursery stock or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment. [Agricultural Risk Protection Act, Public Law No.106-224 (2000,p. 114)]

Offsite shall mean any location outside the boundaries of the project site.

Onsite shall mean any location within the boundaries of the project site.

Person shall mean any landowner, lessee, consultant, contractor, developer or other entity, including agents, employees, independent contractors, whether persons, firms, associations, corporations, partnerships, joint ventures, estates, trusts, business trusts, syndicates, fiduciaries, governmental bodies, agencies or officials.

Pest shall mean any organism, insect, rodent, fungus, virus, bacteria, or other agent that causes any damage, abnormal growth or mortality of any tree, shrub, bush, grass or ground cover, or woody vegetation.

~~*Prune*~~*Pruning* shall mean the removal of dead, dying, diseased, weak, or objectionable branches in order to increase usefulness, beauty ~~and~~, structural integrity, or vigor~~.~~

of a tree. Pruning ~~*standard*~~ shall ~~mean~~be in accordance with the following: American National Standard Institute, Standard for Tree Care Operations—Tree, Shrub and Other Woody Plant Maintenance—Standard Practices (ANSI A300, current edition); American National Standard Institute, Safety Standards for Tree Care Operators (ANSI Z133.1, current edition); National Arborist Association Pruning Standards for Shade Trees (current edition).

Pruning, improper shall mean the substantial alteration of a tree such that there is irreversible damage or that it is likely to result in the tree's decreased structural integrity, decline or death.

Regulated tree shall mean any tree as follows:

(1) Private regulated tree shall mean any tree on private property, except those species listed on the Atlantic Beach Prohibited Species List~~, meeting the following conditions:~~

with a~~. A~~ DBH of eight (8) inches or more.

(2) Public regulated tree shall mean any tree on public property, except those species listed on the Atlantic Beach Prohibited Species List.

(3) Any tree planted as required mitigation.

Regulated vegetation shall mean vegetation located within any area designated as an "environmentally sensitive area," as defined by the City of Atlantic Beach Comprehensive Plan including, but not limited to, all wetlands, all beach and dune areas seaward of the coastal construction control line, and all areas designated as conservation on the future land use map.

Shade tree shall mean any self-supporting woody plant of a species that is generally well-shaped, well-branched, and well-foliated which normally grows to a minimum average height of at least thirty-five (35) feet with a minimum average mature crown spread of at least thirty (30) feet, and which is commonly accepted by local horticultural and arboricultural professionals as a species which can be expected to survive for at least fifteen (15) years in a healthy and vigorous growing condition over a wide range of environmental conditions.

Shrub shall mean a self-supporting woody perennial plant differing from a perennial herb by its persistent and woody stems and from a tree by its low stature and habit of branching from the base.

Site shall mean the total area within the property boundaries of a principal parcel to be developed, or contiguous parcels intended for development under a common scheme or plan.

Stop work order, as used in this chapter, shall mean an order from the designated administrative official to immediately halt all vegetation and tree removal, any form of site or soil disturbance, or other activity with potential to impact trees or vegetation regulated by this chapter.

Street shall mean a public or private thoroughfare, which affords the principal means of access to abutting property, including but not limited to alley, avenue, drive, lane, place, road, street, terrace, way, or other means of ingress or egress, regardless of the term used to describe it.

~~*Tidal marsh* shall mean a marsh found along rivers, coasts, and estuaries which floods and drains by the tidal movement of the adjacent estuary, sea, or ocean.~~

Tree shall mean any self-supporting woody or fibrous plant which at maturity attains a trunk DBH of at least three (3) inches or more and which normally attains an overall height of at least fifteen (15) feet, usually with one (1) main stem or trunk and many branches. Trees shall be classified as follows:

(1) Large: Having an average mature height of fifty (50) feet or more.

(2) Medium: Having an average mature height of at least thirty (30) feet but less than fifty (50) feet.

(3) Small: Having an average mature height of at least fifteen (15) feet but less than thirty (30) feet.

Tree ~~conservation fund~~Trust Fund (tree fund) shall mean an account established by the ~~city~~City to ~~provide an opportunity to make equivalent value~~collect cash payment ~~to~~ for the ~~city~~purpose of replacing or enhancing the maritime forest in lieu of providing the required landscape or ~~tree stock~~trees on a site.

Tree protection plan shall mean the plan required pursuant to this chapter, identifying and showing the location, type, size and health of existing trees, stating the ultimate disposition of the trees, showing the type, size and location of any trees to be planted and setting forth measures to protect trees before, during and after construction.

Tree protection zone shall mean the area located around the perimeter of the dripline of a tree or its Critical Root Zone, in which no activity such as clearing, filling, excavating, storage of materials, parking of vehicles, or any other activity that in the opinion of the administrator may damage the tree. ~~At the discretion of the administrator,~~For trees with a large CRZ that makes construction virtually impossible, there are alternatives for temporarily protecting roots such as thick mulch padding and steel or wooden plating. A proposed request for these exceptions can be made during the permitting so the the administrator may determine if the tree protection zone may be reduced for trees located on smaller lots in order to reasonably protect the tree and facilitate construction on the development parcel.

Tree removal shall mean any act that physically removes the tree or its roots from the earth or causes a tree to die including, but not limited to, spiking, girdling, chemical poisoning, improper pruning, changing the natural grade above or below the root system or around the trunk, or ~~improper pruning where~~damage to the ~~natural form~~root systems by cutting or damaging with the pressure of ~~the tree is permanently changed and results in tree death or decline~~equipment, vehicles, or material.

Tree or *vegetation removal permit* shall mean the written authorization issued by the ~~city~~City to proceed with vegetation or tree removal in accordance with the provisions of this chapter, which may include mitigation requirements and other terms and conditions as needed to create consistency with this chapter. The terms permit, tree permit, vegetation removal permit or tree removal permit may be used interchangeably as appropriate to the context.

~~*Tree technical manual (TTM)* shall mean a manual, developed and maintained by the city, pursuant to this chapter, which contains the standards and specifications for sound arboricultural practices, techniques and procedures to be practiced within the city.~~

Understory vegetation shall mean assemblages of natural low-level woody, herbaceous, and ground cover species not normally considered to be trees which exist in the area below the canopy of the trees, including any tree that is less than three (3) inches DBH.

Vacant lot shall mean any property not previously developed with a structure of any kind or a property where all structures were removed more than twenty (20) years prior to the date of the tree/vegetation removal application.

Variance. A variance shall mean relief granted from certain terms of this chapter. The relief granted shall be only to the extent as expressly allowed by this chapter and may be either an allowable exemption from certain provision(s) or a relaxation of the strict, literal interpretation of certain provision(s). Any relief granted shall be in accordance with the provisions as set forth in

section 23-25 of this chapter, and such relief may be subject to conditions as set forth by the City of Atlantic Beach.

Vegetation shall mean any plant material including, but not limited to, trees, shrubs, vines, herbs and grasses, including marsh grasses and any coastal dune vegetation.

Vegetation inventory shall mean a scaled drawing which delineates the location and common and/or scientific name of vegetation upon a parcel of land, including trees greater than three (3) inches DBH and palms with an overall height of more than eight (8) feet. If necessary, a survey or other professionally prepared document, certified as appropriate, may be required as part of the vegetation inventory.

Viable shall mean having the capacity to live and develop.

~~*Weed* shall mean any undesired, uncultivated plant that grows in profusion so as to crowd out a desired plant.~~

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Secs. 23-9, 23-10. Reserved.

ARTICLE III. TREE AND VEGETATION REGULATIONS AND PERMITS

DIVISION 1. IN GENERAL

Sec. 23-11. Scope.

The provisions of this chapter shall be administered as set forth within this chapter. Administrative procedures, authorities and responsibilities of the ~~city commission~~City Commission and the administrator are set forth herein.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

DIVISION 2. ADMINISTRATION

Sec. 23-12. City commission.

The ~~city commission~~City Commission shall have the following authorities and responsibilities:

(1) To establish fees and fines related to the administrative costs of carrying out the requirements of this chapter.

(2) To establish a tree conservation trust fund to collect and disburse monies for the purpose of growing and maintaining the ~~city's~~City's maritime forest.

(3) To amend this chapter as may be needed to accomplish the stated purpose and intent of this chapter.

(4) To hear and decide appeals where it is alleged there is an error in any order, requirement or decision made by the community development board in the implementation of this chapter.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-13. Administrator.

The administrator shall have the following authorities and responsibilities:

(1) To accomplish all administrative actions required by this chapter, including issuance of proper notices; receipt and review of applications; issuance of tree and vegetation removal permits; receipt and processing of appeals and any stop work orders.

~~(2) To maintain all records relating to this chapter and its administration.~~

~~(3) To provide written instructions to applicants related to the required process for applications as required by this chapter.~~

~~(4) To receive, process and make administrative determinations on all applications for tree and vegetation removal permits as set forth in section 23-23.~~

~~(5) To refer applications for tree and vegetation removal to other departments and agencies for comment, as set forth in section 23-23, as may be needed.~~

~~(6) To conduct field inspections as needed to make determinations related to tree and vegetation protection or removal.~~

~~(7) To review preliminary development plans, applications for certain building permits, including site and lot plans with appropriate city staff, to determine whether proposed construction, alterations, repair or enlargement of a structure is in compliance with the provisions of this chapter.~~

(8) To recommend to the ~~city commission~~City Commission projects consistent with the purpose and intent of this chapter, ~~with a written statement outlining the costs and benefits of such projects.~~

(9) To recommend to the ~~city commission~~City Commission amendments consistent with the implementation of the purpose and intent of this chapter~~, with a written statement outlining the need for such changes.~~

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-14. Tree ~~conservation fund~~Trust Fund.

(a) *Establishment of tree trust fund.* The ~~city commission~~City Commission hereby recognizes and reaffirms the prior establishment of the ~~tree conservation fund ("tree fund")~~Tree Trust Fund for the purposes of accepting and disbursing monies paid to the ~~city~~City as part of tree mitigation and any other funds deposited with the ~~city~~City for the purpose of ~~tree and vegetation conservation and protection.~~enhancing the tree canopy. This fund shall be used solely ~~for the planting of trees, the protection and conservation of existing trees where appropriate, or the re-establishment of vegetative resources~~as described in ~~the city and any other ancillary costs associated with~~

~~such activities, provided that such ancillary costs shall not exceed twenty (20) percent of the cost of the particular project~~this section.

(b) *Terms of existence.* The tree fund shall be self-perpetuating from year to year unless specifically terminated by the ~~city commission~~City Commission.

(c) *Tree ~~fund~~Fund assets.* All funds received shall be placed in trust for ~~and inure to~~ the public use and environmental benefit of the ~~city~~City. Said funds shall accordingly be used and distributed as designated by the ~~city commission~~City Commission.

(d) *Tree fund administration.*

(1) Tree funds shall be used only for the purposes designated by the ~~city commission~~City Commission in accordance with the intent of this chapter and the applicable goals, objectives and policies ~~as set forth within the comprehensive plan.~~.

(2) All mitigation funds collected pursuant to this chapter shall be deposited into the tree fund, which shall be a separate account established and maintained apart from the general revenue fund of the ~~city~~City.

(e) *Disbursal of tree fund assets.*

(1) Expenditures for projects funded by the tree fund shall be made in accordance with the established purchasing procedures of the ~~city~~City. The ~~environmental stewardship committee~~Environmental Stewardship Committee (ESC) shall review and make recommendations on the disbursal of all tree fund assets to the ~~city commission. The city commission shall have~~City Commission for final approval ~~on all disbursals of the tree fund assets~~.

(2) Priority shall be given to the use of funds for projects that plant ~~or~~, replace, or protect trees ~~or~~and vegetation ~~along~~in the City, including both public ~~rights-of-way or on properties and lands in public use, or on lands owned by homeowners or property owners associations, or on other~~ and private ~~property~~lands. Funds can be used to support the maintenance of trees. Funds may be used for ancillary tree protection costs provided ~~the trees are planted within the front yard setback areas or, in the case~~that such costs shall not exceed twenty (20) percent of ~~corner lots only,~~the cost of the ~~required side yard setback areas which adjoin a public right-of-way that will provide needed shade, aesthetic enhancement or the re-establishment of tree canopy in neighborhoods and along public roadways.~~ particular project.

For trees planted on private property funded by the Tree Trust Fund, the property owner shall be responsible for maintaining the health of the tree(s). ~~Should the administrator become aware of any tree dying or being in a state of decline within three (3) years of being planted, the property owner shall be required to replace the tree within sixty (60) days of that determination.~~

~~Secondarily~~As a secondary priority, funds may be used for purchase of landscape materials or equipment necessary ~~and proper~~ for the preservation, maintenance, relocation and/or restoration of trees and ecosystems on any public land in the ~~city~~City, or for the funding of community educational programs which ~~promote,~~help to enhance ~~or implement the goals and objectives established in~~, protect, and promote the City's maritime

forest. Funds expended under this ~~chapter~~paragraph may not exceed twenty (20) percent of the total expenditures from the tree fund annually.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Secs. 23-15—23-20. Reserved.

DIVISION 3. PERMITS

Sec. 23-21. Permits required by this chapter.

Unless specifically exempted within following section 23-22, permits are required for removal of regulated trees and vegetation on all lands within the City of Atlantic Beach. The permit requirements are not intended to restrict or adversely affect a property owner's rights under constitutional or statutory law, or otherwise preempt applicable Florida Statutes.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-22. Exemptions from the requirement for a permit.

In addition to the provisions of section 23-21, the following activities shall be exempt from the requirements to apply for and receive a tree or vegetation removal permit.

The person(s) claiming any exemption shall have the burden of proving entitlement to such exemption. The administrator may require consultation with or documentation from a certified arborist to verify certain conditions.

(1) *Emergency situation.* The removal of trees destroyed or severely damaged during or immediately following an emergency (i.e., hurricane, tropical storm, tornado, flood or any other act of nature) shall be granted an exemption when the administrator determines that normal permitting requirements will hamper private or public work which will compromise public safety.

(2) *Safety hazard.* The removal of trees that pose imminent danger to the public health, safety and general welfare shall be granted an exemption upon inspection and determination by the administrator that immediate removal without delay is required.

(3) *Diseased or pest-infested trees.* The removal of diseased or pest-infested trees shall be granted an exemption upon inspection and determination by the administrator~~, a forester,~~ or ~~an~~a certified arborist that removal is needed for the purpose of preventing the spread of disease or pests.

(4) ~~*Noxious invasive*~~*Invasive trees.* The removal of invasive ~~or nuisance~~ trees, as currently listed by the Florida Department of Agriculture and Consumer Services (FDACS), Florida Department of Environmental Protection (FDEP), ~~the~~ Florida ~~Exotic Pest Plant~~ Invasive Species Council (~~FEPPC~~),FISC), or the Atlantic Beach Prohibited Species List~~, or some other recognized authority,~~ shall be granted an exemption upon inspection and verification by the administrator~~, a forester,~~ or ~~an~~a certified arborist.

(5) *Utility operations.* The pruning and/or removal of trees or understory vegetation by duly authorized communication, water, sewer, electrical or other utility companies or federal, state, county or ~~city~~City agencies, or engineers or surveyors working under a contract with such utility companies or agencies, shall be exempt, provided the removal is limited to those areas necessary for the maintenance of existing lines or facilities or for the construction of new lines or facilities in furtherance of providing utility service to its customers, and provided further that the activity is conducted so as to avoid unnecessary removal and, in the case of aerial electrical utility lines, is not greater than that specified by the National Electrical Safety Codes as necessary to achieve safe electrical clearances. Notwithstanding this exemption, any such entity shall provide adequate prior notice to the ~~city~~City before commencing such work and make every effort to retain as much tree canopy, to avoid damaging tree roots, and to prune in a way that leaves trees safe and structurally sound.

(6) *Surveyors/engineers.* The pruning of trees and/or removal or understory vegetation by a Florida-licensed land surveyor or engineer in order to provide physical access or view necessary to conduct a survey or site examination for the performance of professional duties related to land surveying, soil percolation and/or soil bore tests shall be exempt provided that such alteration is limited to a swath of ten (10) feet or less in width. Any pruning or removal of trees or vegetation shall be as minimal as possible at the direction of the administrator. However, any land clearing for the purpose of surveys shall not authorize the removal of any regulated trees or regulated vegetation.

(7) *City crews.* The ~~city~~City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within public rights-of-way, within any utility or drainage easements or within the illumination areas of street lights, and other public lands as may be necessary, and shall not be subject to mitigation assessment. ~~The city~~All efforts will be made to make that area aesthetically pleasing, to avoid damaging tree roots, and to leave trees structurally sound. The City shall not have the responsibility to maintain, prune or remove any damaged, dead or diseased trees on any private property within the ~~city~~City.

(8) ~~[~~*Exemptions.*~~]~~ Applicable exemptions in accordance with Florida Statutes.

~~(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)~~

Sec. 23-23. Permits procedures.

(a) *Application required.* The applicant for a tree or vegetation removal permit shall submit the established fee along with the application form as created and provided by the ~~city~~City to the designated administrative department. The application shall contain all required narrative and graphical information necessary to determine compliance with this chapter. If the applicant is not the property owner, proper owner's authorization shall also be required.

(1) *Existing lots or parcels.* When a tree or vegetation removal permit is required, applications for tree or vegetation removal shall be made prior to removal and prior to any site disturbance or grading on a lot or parcel.

(2) *New or re-platted subdivisions.* Applications for tree or vegetation removal that will be part of a new subdivision plat or a re-plat shall be submitted along with the preliminary subdivision plat application so that due consideration may be given to the protection of regulated trees and regulated vegetation during the site planning and subdivision process. Trees to be protected shall be noted on the final subdivision plat, and subsequent applications for individual lots or parcels shall be consistent with the approved final subdivision plat, or application for a new tree removal permit shall be required.

(3) *After-the-fact permits.* Any person(s) engaging in the removal of regulated tree(s) or regulated vegetation prior to obtaining a permit will be required to apply for and obtain an after-the-fact permit, and meet mitigation requirements as assessed.

(b) *Sufficiency review of applications.*

(1) Upon receipt of the application and appropriate fee, the administrator shall conduct a preliminary review within five (5) business days to determine that all required information has been submitted and is sufficient for review purposes. The applicant shall be notified of any deficient items. Upon submittal of deficient or missing information, the administrator shall again review the application. If the requested information has not been provided or is insufficient, the applicant shall be notified in writing that no further review will be performed until the requested information is provided and found to be sufficient.

(2) The administrator shall upload all tree permit applications to the ~~city's~~City's website and send to ~~environmental stewardship committee~~Environmental Stewardship Committee (ESC) within three (3) days of being deemed sufficient in accordance with this section.

(3) The ESC Tree Subcommittee may review any permit application for compliance with this chapter and may provide recommendations to the administrator regarding the permit application.

~~(4)~~ The administrator may refer the application to other ~~city~~City department(s), the ESC, or a consultant during preliminary review. The applicant shall be notified if extended review by other departments and/or professionals is required.

(~~5~~4) An application shall be deemed abandoned thirty (30) days after the date the administrator notifies the applicant of any deficiencies contained in the application if the applicant has failed to submit all of the deficient or missing information. The administrator may, upon written request and justification by the applicant, grant not more than one (1), ~~30~~thirty-day extension. At the expiration of the extension, the application shall automatically become null and void. In such cases, the application review fees will not be refunded.

(c) *Review by other agencies.* At the discretion of the administrator, relative to the environmental sensitivity of the site, appropriate written sign-offs, permits or consents from

the agencies listed below which have jurisdiction may be required prior to regulated tree or regulated vegetation removal from sites contiguous to or containing environmentally sensitive areas or lands. The applicant shall obtain the written approvals, permits, or consents and submit the agencies' written verification to the ~~city~~City:

(1) Army Corp of Engineers (ACOE);

(2) Saint Johns River Water Management District (SJRWMD);

(3) Florida Department of Environmental Protection (FDEP);

(4) Any other applicable governmental agencies extending jurisdictional controls over the site.

~~(d~~(d) *Inspections required.* The applicant shall schedule all required inspections in accordance with Section 23-24 following application submittal.

(e) *Mitigation calculations.* Upon completion of the required inspections, staff shall provide the applicant with the applicable tree mitigation calculations pursuant to Section 23-33.

(f) *Mitigation plan submittal.* The applicant shall submit a mitigation plan within thirty (30) calendar days of receipt of the mitigation calculations. The mitigation plan shall:

(1) Include a site plan identifying the location of all preserved trees, relocated trees, and proposed new trees;

(2) Indicate the species and caliper size of all relocated and newly planted trees;

(3) If the applicant elects to satisfy mitigation requirements through payment in lieu of on-site planting, include documentation detailing the number of caliper inches to be mitigated through payment, as well as any other information deemed necessary by the City.

(g) *Compliance review and approval of applications.* When the administrator's application review process and inspections have been completed and an approved mitigation plan has been submitted, the administrator shall distribute the approved ~~free~~tree permit to the applicant and all members of the ESC and upload the draft permit to the ~~city's~~City's website.

(e~~h~~) *Expiration of permits.* Work pursuant to the permit shall commence within six (6) months of the date of issuance, or the permit shall expire. If the tree removal permit is in connection with a development permit, compliance with the tree removal permit shall be determined before the applicable development permit's final inspection, or issuance of certificate of completion or certificate of occupancy, as applicable.

(~~f~~h) *Content of permits.* The permit shall be issued in such form as may be prescribed by the administrator and shall set forth in detail the conditions upon which the permit is granted and specifically identify which land areas shall be cleared and/or which trees shall be permitted to be removed. One (1) permit may cover several trees or groups of trees as long as the trees or groups of trees can be clearly identified thereon; provided, however, no permit may be issued for more than one (1) lot, parcel or area of land unless such lots, parcels or areas of land shall be contiguous to one another and considered as one (1) parcel for the purpose of development.

(~~g~~j) *Posting of permits.* The permit shall be posted in a conspicuous and visible place at the front of the property by the applicant prior to any tree removal. The permit shall remain posted on the property during all applicable tree and vegetation removal activity and until final inspection by the ~~city~~City. It is the responsibility of the applicant to maintain the permit in a clearly visible manner at all times.

(~~h~~k) *Amendment of permits.* Requests for minor changes to approved plans shall be made as an amendment to the applicable permit. Additional information submitted with a request for permit amendment shall be adequate to fully document the nature of the proposed change and the effect it will have on all aspects regulated by this chapter. All plans, reports, calculations, and other information affected by the proposed amendment shall be updated so as to maintain an accurate record of the development activity. Review time for any changes to plans approved for a permitted site shall be the same as specified for the review of a new application. An amendment to a permit shall not automatically extend the expiration date.

Substantial changes, including significant increases in the number of trees to be removed or land to be cleared, increases in impervious surface area, changes to intended land use, modification of stormwater management systems, or any other change that constitutes a major modification to a site plan or subdivision, new phases of development or other additions, shall not be treated as amendments, but shall require a new permit application and fee.

(i) *Revocation of permits.*

(1) *By administrator.* The administrator may revoke any permit issued pursuant to this chapter, following notice in writing to the permittee and after providing the permittee opportunity to respond to the notice, in either of the following circumstances:

a. The administrator finds that the permittee has continued with any development activity on a site for which a permit was issued, while the site is under a stop work order which has not been reversed, canceled or suspended pursuant to this chapter, except for specified remedial work required to bring the violation into compliance with the approved permit; or

b. If the administrator finds that the approval of the permit was based on incorrect information furnished by the applicant for the permit. Based upon such finding, however, the administrator may make reasonably necessary accommodations to the conditions of a permit in lieu of revoking it.

(2) *Discontinuance of work.* Revocation of a permit may also result in a stop work order in accordance with section 23-48.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21~~; Ord. No. 95-25-124, § 1, 5-27-25~~)

Sec. 23-24. Inspections and site preparation.

(a) *Inspections.* The following inspections shall be conducted in conjunction with all development activities subject to the requirement for a tree or vegetation removal permit.

(1) *Initial inspection.* ~~The~~Upon receipt of a completed application, the administrator shall conduct an initial inspection of the site ~~prior to approval of any~~to verify the information list on the application.

(2) *Protective barricade inspection.* A protective barricade inspection shall ensure proper installation of measures prior to the initiation of any other development activity where required as a condition of the permit. Barricades shall be installed in accordance with Section 23-32.

(3) *Final inspection and notice of completion.* A final inspection and notice of completion shall occur when all development activities permitted for the site have been completed. No certificate of occupancy shall be issued, nor any building or premises occupied, unless and until the administrator has determined after final inspection that all work, including land clearing, regulated tree or regulated vegetation removal, tree protection and tree replacement, has been done in accordance with the approved permit and plan.

(4) *Maintenance inspections.* The administrator shall have the authority during the required three (3) year maintenance period to conduct on-site maintenance inspections subsequent to final inspection and notice of completion, and to require correction of all deficiencies and violations in accordance with this chapter.

(b) *Site preparation.* Prior to requesting initial and/or protective barricade inspection, the applicant shall prepare the site ~~with proper staking and taping as necessary to allow the administrator to locate and identify the lot or parcel to be inspected; to determine the building site; to locate the proposed buildings or other proposed structures or improvements that will disturb vegetation, and~~as follows to ensure clear understanding between the property owner, contractor, administrator and other inspectors that may be involved.

(1) The address or legal description of the property shall be displayed in a conspicuous manner.

(2) The property corners shall be marked according to survey with wooden stakes. Each stake shall be flagged with surveyor's tape or with bright colored paint. ~~Any property crossed by the coastal construction control line shall have that line marked on the ground with conspicuous wooden stakes and surveyor's tape or durable waterproof string and shall be clearly labeled "CCCL".~~

(3) All trees to be preserved during development activities, including ~~vital root systems~~their Critical Root Zones , shall be barricaded according to ~~a tree protection plan consistent with the guidelines in the Tree Protection Guide for Builders and Developers, published by the Florida Division of Forestry and/or any other reasonable requirements deemed appropriate by the administrator to implement this part.~~Section 23-32.

(4) All trees proposed for removal shall be clearly identified with red or orange surveyor's tape or paint.

(5) All trees proposed for protection as mitigation for removed trees shall be clearly identified with blue or green surveyor's tape or paint placed at eye level throughout the construction period.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-25. Appeals and variances.

(a) *Appeals.* Appeals of final decisions by the administrator made under the authority of this chapter may be made by the applicant, any member of the ESC ~~tree subcommittee~~Tree Subcommittee, or an adversely affected party in accordance with the following provisions. Any appeal filed pursuant to this section shall stay all work on the premises and all proceedings in furtherance of the action appealed, unless the appropriate administrative official certifies that a stay would cause imminent peril to life or property.

(1) Appeals of a final action or decision by the administrator shall be filed in writing with the administrator within five (5) business days after rendition of the decision or final order being appealed. Upon receipt of a timely filed appeal, the administrator shall place the matter on the agenda of the next ESC ~~tree subcommittee~~Tree Subcommittee meeting or request a special meeting within a reasonable period of time with proper public notice, as well as due notice to interested parties. ESC ~~tree subcommittee~~Tree Subcommittee shall review the application for compliance with the requirements of Chapter 23 and shall, by majority vote, recommend that the administrator either approve, approve with conditions, or deny the appeal. If the appellant is a member of the ESC ~~tree subcommittee~~Tree Subcommittee, that member shall not participate in the decision. The administrator, upon considering the tree subcommittee recommendation, shall issue or deny the permit within five (5) business days after the ESC ~~tree subcommittee~~Tree Subcommittee meeting.

(b) *Variances.* The ~~community development board~~Community Development Board is authorized to grant relief from the strict application of this chapter where, due to an exceptional situation, adherence to the regulations of this chapter results in "exceptional practical difficulties or undue hardship" upon a property owner. The ~~community development board~~Community Development Board must determine that granting the request will not cause substantial detriment to the public good and will not be inconsistent with the general intent and purpose of this chapter. The applicant has the burden of proof. Any request for a variance pursuant to this section shall stay all work on the premises and all proceedings in furtherance of the action appealed, unless the appropriate administrative official certifies that a stay would cause imminent peril to life or property.

(1) A request for a variance shall be submitted on an application form as provided by the ~~city~~City and shall contain each of the following:

a. A legal description of the property for which the variance is requested.

b. A reasonable statement describing the reasons and justification for the variance.

c. A survey or site plan indicating existing, removed, and/or proposed trees; existing and proposed construction, as well as other significant features existing on the lot.

d. The signature of the owner, or the signature of the owner's authorized agent. Written and notarized authorization by the owner for the agent to act on behalf of the property owner shall be provided with the application.

(2) Upon receipt of a complete and proper application, the administrator shall within a reasonable period of time schedule the application for a public hearing before the ~~community development board~~Community Development Board following the required public notice as set forth in section 24-51. At the public hearing, the applicant may appear in person and/or may be represented by an authorized agent.

a. Applications for a variance shall be considered on a case-by-case basis and shall be approved only upon findings of fact that the application is consistent with the definition of a variance and consistent with the provisions of this section.

b. Variances shall not be granted solely for the personal comfort or convenience, for relief from financial circumstances, or for relief from situations created by the property owner.

(3) Grounds for approval of a variance. The ~~community development board~~Community Development Board shall find that one (1) or more of the following factors exist to support an application for a variance:

a. Existing topographic elevation changes that would result in the likelihood that preserved or planted materials would not survive.

b. Existing electrical lines or utility easements that prevent or restrict the preservation or planting of landscape materials.

c. Barrier island or dune ecosystem planting conditions that cannot support certain hardwood species.

d. Designs and plans that, to the greatest extent feasible, avoid encroachment upon preservation areas and/or trees.

In the event the community development board finds that none of the above exist, then the community development board shall deny the variance.

(4) Approval of a variance. To approve an application for a variance, the ~~community development board~~Community Development Board shall find that the request is in accordance with the preceding terms and provisions of this section and that the granting of the variance will be in harmony with the purpose and intent of this chapter. In granting a variance, the ~~community development board~~Community Development Board may prescribe appropriate conditions in conformance with and to maintain consistency with ~~city~~City Code. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter, and shall be subject to established code enforcement procedures.

(5) Approval of lesser variances. The ~~community development board~~Community Development Board shall have the authority to approve a lesser variance than requested if a lesser variance shall be more appropriately in accord with the terms and provisions of this section and with the purpose and intent of this chapter.

(6) Nearby nonconformity. Nonconforming characteristics of nearby lands, structures or buildings shall not be grounds for approval of a variance.

(7) Waiting period for re-submittal. If an application for a variance is denied by the community development board, no further action on another application for substantially the same request on the same property shall be accepted for three hundred sixty-five (365) days from the date of denial.

(8) Time period to implement variance. Unless otherwise stipulated by the ~~community development board~~Community Development Board, the work to be performed pursuant to a variance shall begin within twelve (12) months from the date of approval of the variance. The planning and ~~community~~ommunity development director, upon finding of good cause, may authorize a one-time extension provided that an associated building permit is active.

(9) Appeals of a decision by the ~~community development board~~Community Development Board related to this chapter may be made to the ~~city commission~~City Commission by any adversely affected person(s), any officer, board or department of the ~~city~~City affected by any decision of the community development board made under the authority of this chapter. Such appeal shall be filed in writing with the ~~city clerk~~City Clerk within thirty (30) days after rendition of the final order, requirement, decision or determination being appealed. The appellant shall present to the ~~city commission~~City Commission a petition, duly verified, setting forth that the decision being appealed is in conflict with or in violation of this chapter, in whole or in part, and specifying the grounds of the conflict or violation. A duly noticed public hearing, which shall be de novo, will be held by the ~~city commission~~City Commission at a date and time set by the ~~city manager~~City Manager or his/her designee, shall be scheduled within ten (10) business days from the date the appeal is filed.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21~~; Ord. No. 95-25-124, § 1, 5-27-25~~)

Sec. 23-26. Fees.

(a) *Application fees.* The ~~city commission~~City Commission hereby establishes the following fees related to the administrative costs of carrying out the requirements of this chapter. These fees shall be payable to the ~~city~~City upon submittal of an application for approval, amendment, or extension of a permit required by this chapter, or for each required re-inspection, or when a final action or decision by the administrator is appealed. Applications for tree and vegetation removal related requests shall not be considered as complete applications until such time as required fees have been paid in full.

(1) Tree and vegetation removal permit application. The tree and vegetation removal permit application fee shall cover the processing and review of the application as well as one (1) initial inspection, one (1) protective barricade inspection, one (1) final inspection and one (1) maintenance inspection per year. Any additional inspections required due to inadequate site preparation or reports of violation of the provisions of this chapter will be charged a reinspection fee as provided below:

a. ~~Single~~Developed single- or two-family residential uses (per lot~~)$125~~) $150.00

b. New construction or vacant single- or two-family residential uses (per lot) $500.00

c. Multifamily residential ~~uses250~~uses $250.00

~~c~~d. Commercial or industrial ~~uses250~~uses $250.00

~~d~~e. Institutional and any other ~~uses250.00~~

~~(2) Extensions50~~uses $250.00

(3) ~~Appeals125~~Appeals $500.00

(4) ~~Variances300~~Variances $500.00

(b) Reinspection fees.~~50~~ $55.00

(c) Research or extensive time fees (per hour)50.00

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Secs. 23-27—23-29. Reserved.

DIVISION 4. GENERAL PROVISIONS

Sec. 23-30. Minimum tree requirements.

These minimum tree requirements shall apply to all property within the ~~city~~City. Credit will be given for trees on the Atlantic Beach Recommended Species List, but none will be given for trees on the Atlantic Beach Prohibited Species List. Section 24-176 of this Code of Ordinances also provides additional landscaping requirements for nonresidential uses.

(1) *Residential uses.* For each parcel upon which a single-family, two-family or multifamily dwelling unit, or associated residential accessory unit is proposed, or where the primary activity is residential in nature:

One (1) minimum four-inch caliper tree shall be planted and/or preserved for every two thousand five hundred (2,500) square feet of development parcel area or portion thereof, excluding therefrom preserve areas and water bodies. Of the minimum required trees, at least one (1) tree shall be a shade tree planted or preserved within the required front yard. A cluster of three (3) palm trees, subject to other conditions of this chapter, may be used to meet the requirements of a single shade tree within required front yards on oceanfront lots only.

(2) *Commercial uses.* For each parcel upon which a commercial structure or associated accessory use is proposed, or where the primary activity is commercial in nature:

One (1) minimum four-inch caliper tree shall be planted and/or preserved for every eight thousand (8,000) square feet of parcel area or portion thereof, excluding therefrom preserve areas and water bodies.

(3) *Industrial uses.* For each parcel upon which an industrial structure or associated accessory use is proposed, or where the primary activity is industrial in nature:

One (1) minimum four-inch caliper tree shall be planted and/or preserved for every ten thousand (10,000) square feet of parcel area or portion thereof, excluding therefrom preserve areas and water bodies.

(4) *Public/semi-public (governmental or institutional) uses.* For each parcel upon which a government structure or associated accessory use is proposed, or where the primary activity is public/semi-public in nature:

One (1) minimum four-inch caliper tree shall be planted and/or preserved for every ten thousand (10,000) square feet of parcel area or portion thereof, excluding therefrom preserve areas and water bodies.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-31. General prohibitions.

Except as provided in sections 23-21 and 23-22, the following general prohibitions shall be applicable.

(a) *Excessive or improper pruning.* It shall be unlawful for any person to engage in excessive or improper pruning techniques on trees required ~~pursuant to~~by an approved tree protection plan. Trees intended for shade purposes shall be allowed to reach their mature canopy spread.

(b) *Pruning, root disturbance or removal of ~~city~~City trees.* It shall be unlawful for any person to trim, prune, damage, or remove any tree which is within the ~~city's~~City's rights-of-way or upon any other ~~city~~City property without the permission of the ~~city~~City as evidenced by the appropriate permit.

(c) *Tree ~~poisoning, girdling, or spiking~~damage.* It shall be unlawful for any person to subject a tree to any danger from poison or reactive material, ~~from~~ girdling with wire, cable or similar material, ~~or from~~ inserting metal or chemicals into a tree, or cutting compressing, or otherwise damaging a tree's root system.

(d) *Attachments.* It shall be unlawful for any person to attach anything, including signs, permits, nails or spikes that may be injurious or cause damage, to a tree. Exceptions are protective wires, braces or other devices used to support a tree.

(e) *Unauthorized clearing of lots.* It shall be unlawful for any person to clear the trees from any lot without a City permit such that the minimum requirements of section 23-30 are not maintained.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-32. Tree protection during development and construction.

~~It is the intent of this section that on all~~All properties ~~under development~~, regardless of whether or not a tree removal permit is required, the property owner(s) and their agent(s) shall ensure ~~that the measures described in this section are complied with in order to protect~~ the protection of all regulated trees that may be impacted by ~~the~~repairs, improvements, and/or any development activities. The owner(s) and agent(s) shall ensure full compliance with the measures described in this section to protect the Critical Root Zone, trunks, and canopy of trees.

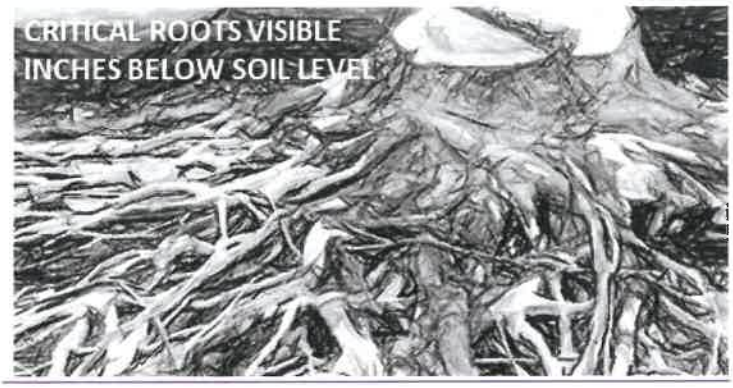
(a) *Restrictions during construction.*

(1) *Placement of materials, machinery, or ~~temporary~~ soils.* It shall be unlawful for any person(s) to cause or allow the ~~storage~~temporary or permanent placement of construction materials, soils, or stones or the passing of, placement, or use of heavy equipment or machinery~~, or the temporary storage of soil deposits~~ within the ~~tree protection zone~~Critical Root Zone of any regulated tree ~~or~~, group of trees to be preserved, or trees on an adjoining property or right-of-way.

(2) *Disposal of waste materials.* It shall be unlawful for any person(s) to cause or allow the disposal of waste materials such as paint, oil, solvents, asphalt, concrete, or mortar on any private property. ~~Further,~~ This includes prohibiting the temporary placement of any ~~of these or other~~such materials that may be harmful to the soils, water, and/or life of a regulated tree ~~may not be allowed to sit~~ on or ~~enter~~near the soil within the tree protection zone ~~or where planting beds are to be situated.~~.

(b) ~~*Burden of*~~ *Property Owner responsibility for tree protection* ~~*on property owner.*~~. The property owner(s) and their agent(s) shall ensure that any tree ~~shown on the vegetation inventory~~ for which a tree removal permit has not been obtained is to be carefully protected. The property owner shall further guarantee survival of preserved, relocated, and replacement trees for no less than three (3) years from the date the ~~city~~City accepts the trees and landscaping as complete~~, unless a greater time period is required by a development order~~. If a preserved, relocated or replacement tree dies during that time period, the property owner shall promptly replace the tree in accordance with ~~a remedial action as required by this chapter~~Section 23-34.

(c) *Protective barriers and signage required.* ~~Protective~~Sturdy protective barriers and signage shall be installed around the Critical Root Zone of every tree or group of trees to be preserved prior to commencement of any construction~~,~~. Barriers shall remain in ~~compliance with the guidelines in the Tree Protection Guide for Builders~~place and ~~Developers, published by~~intact throughout the ~~Florida Division~~duration of ~~Forestry and~~/construction or ~~any other reasonable requirements deemed appropriate~~until all risks to the protected trees have been mitigated, as determined by the administrator ~~to implement~~. Removal or relocation of barriers prior to written approval shall constitute a violation of this ~~part.~~Code.



(1) ~~Temporary~~*Minimum barrier distance*. For all protected trees to be preserved on site, temporary protective barriers shall be placed ~~at least six (6)~~not less than 10 feet from the base of any tree~~, and~~. Further, for all trees that are 30 inches DBH or greater the barrier shall be placed not less than 15 feet from the base of any treeand shall encompass at least fifty (50) percent of the area under the ~~dripline of any tree or trees to be preserved or retained for mitigation credit, unless otherwise approved by the administrator~~unpruned drip line of a tree.

Where compliance with the above provisions is physically not possible, a request to provide an alternative for part of the area, such as a thick pine straw mulch or padding that is maintained at no less than 6 inches deep for part of the protection distance, may be considered by the Administrator.

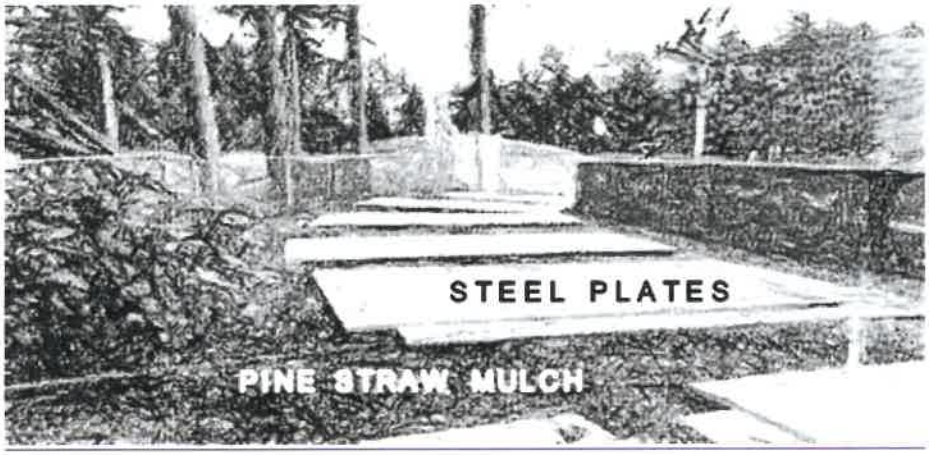
(2) ~~Temporary protective~~*Barrier construction standards*. Protective barriers shall be ~~at least three (3) feet high,~~established as follows:

a. Be not less than 42 inches in height; and ~~shall consist~~,

b. Be constructed of ~~either a~~ wood ~~fence with~~ or metal fencing that provide protection and durability; and,

c. Be supported by steel or two-by-four (2 X 4) posts ~~placed a maximum of~~spaced no more than eight (8) feet apart and secured with a ~~two by four minimum~~ top rail~~, or a mesh fence, or other similar barrier which will limit access to the protected area, unless otherwise approved by the administrator.~~ .

~~(d~~ d. Have clearly visible signage stating "DO NOT ENTER" or "NO ACCESS" placed on or above the barrier at least every eight (8) feet.



(e) *Adjacent properties.* The property owner(s) and their agent(s) shall ensure protective barricading of all regulated trees located in the right of way or on adjacent properties, that have root or branch systems that encroach upon the subject property, and that may potentially be impacted by development activities.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-33. Mitigation to be assessed.

The purpose of mitigation is to incentivize protection of existing trees and, where that is not feasible, ensure sufficient planting and care of appropriate new ones.

(a) *Mitigation required.* Replacement or relocation shall be the preferred methods of mitigation. Unless mitigation in the form of payment into the tree conservation fund has been approved in accordance with section 23-37, mitigation in the form of tree replacement, relocation or preservation shall be required to offset any impacts resulting from the removal of regulated trees/vegetation as a condition of the tree or vegetation removal permit.

(b) *Mitigation assessment.* In general, mitigation shall be assessed according to the ratios given in the following table, such that the number of inches removed (first number) are proportional to the number of inches required to be replaced, relocated or preserved (second number):

TABLE 1. STANDARD MITIGATION ASSESSMENT

CLASSIFICATION OF PROPERTY~~/PROJECTS~~	CATEGORY OF REGULATED TREE Diameter At Breast Height (DBH)			
	~~Diameter at breast height (DBH) less than fourteen~~	~~Diameter at breast height (DBH) equal to or greater~~	~~Diameter at breast height (DBH) of thirty (30) inches or~~	**Heritage** ~~Ratio is expressed as~~

	~~(14) inches~~ ~~Ratio is expressed as inches removed: inches owed~~ **8 to 13 in.**	~~than fourteen (14) inches and less than thirty (30) inches~~ ~~Ratio is expressed as inches removed: inches owed~~ **14 to 29 in.**	~~greater~~ ~~Ratio is expressed as inches removed: inches owed~~ **30 in. or more**	~~inches removed: inches owed~~
~~Vacant lot[1]~~	~~1:0.5~~	~~1:0.5~~	~~1:1~~	~~1:2.5~~
Vacant / Developed lot[2]	1:0.5	1:1	1:2	1:3
New construction[3]	1:1.5	1:2	1:3	1:4
~~Public property~~	~~1:1.5~~	~~1:2~~	~~1:3~~	~~1:4~~
~~Environmentally~~(Other, public property, environmentally sensitive ~~areas~~[4]area, historic corridors)	1:2	1:2	1:3	1:4
~~Historic corridor[5]~~	~~1:2~~	~~1:2~~	~~1:3~~	~~1:4~~

Where a property falls under the ~~definition~~definitions of both a vacant lot and new construction, the mitigation requirements for a vacant lot shall apply.

[1] Vacant lot shall mean any property not previously developed with a structure of any kind or a property where all structures were removed more than twenty (20) years prior to the date of the tree removal application.

[2] Developed lot shall mean any parcel upon which ~~any building, structure, pavement or stormwater facility exists or is proposed but which does not fall under the definition of new construction or vacant lot.~~a building or home exists and will be retained.

[3] New construction shall mean the construction of a new principal building. For the purposes of this chapter, this definition does not include construction proposed on vacant ~~lots. This~~lotshis definition shall include construction proposed on lots that have an active permit for demolition of the principal building; lots where the principal building has been demolished but no building permit for a new principal building has been issued; and where trees are proposed to be removed or relocated in preparation for demolition or development of a principal building.

[4] Environmentally sensitive areas shall include lands, waters or areas within the City of Atlantic Beach which ~~meet one (1) or more of the following criteria:~~

~~(a) Wetlands determined to be jurisdictional, and which are regulated by the Florida Department of Environmental Protection (FDEP), the U.S. Army Corps of Engineers, or the St. Johns River Water Management District (SJRWMD);~~

~~(b) Estuaries or estuarine systems;~~

~~(c) Outstanding Florida Waters as designated by the State of Florida and natural water bodies;~~

~~(d) Areas designated pursuant to the Federal Coastal Barrier Resource Act (PL97-348), and those beach and dune areas seaward of the coastal construction control line;~~

~~(e) Areas designated as conservation on the future land use map;~~

~~(f) Essential habitat to listed species as determined by approved methodologies of the Florida Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, the U.S. Fish and Wildlife Service, and the FDEP.~~ is defined in Chapter 24.

[5] Historic corridor shall mean a tree lined roadway or portion thereof that exhibits special historic, architectural, or cultural value to the citizens of the ~~city~~City as declared by the ~~city commission~~City Commission.

(c) *General conditions.* Mitigation shall be in the form of preservation of existing protected trees, successful relocation of existing trees, replacement with new trees, or payment into the tree fund as authorized by this chapter shall occur within thirty (30) days, or prior to issuance of a certificate of occupancy or other final approval if it is in association with a development permit. The applicant assumes all duties, risks and costs associated with mitigation.

(d) *Tree preservation.* Only residentially zoned parcels that currently have an active building permit for a new principal building may receive preservation credit in accordance with following. For each existing onsite trees that is a designated maritime species, as defined in this chapter, and that is ~~fourteen (14~~eight (8) inches DBH or greater that is preserved onsite, the total number of inches required for mitigation shall be reduced by twenty-five (25) percent, up to a maximum reduction of fifty (50) percent or forty (40) inches, whichever is less. For example, if one hundred (100) inches of mitigation is required and one (1), twenty-inch DBH live oak tree is preserved on-site the required mitigation would be reduced by twenty-five (25) percent to seventy-five (75) total inches of mitigation required.

(e) *Tree relocation.* Existing trees onsite that are three (3) inches DBH or greater that are relocated and that would otherwise be removed from the site because of development ~~may be utilized as credit towards the assessed mitigation, subject to the other conditions stated in this section, if relocated onsite.~~ shall not require mitigation. Relocated trees that do not survive the three (3) year maintenance and monitoring period under Section 23-34 shall be replaced according to the then current mitigation guidelines within sixty (60) days of that determination.

(f) *Tree replacement.*

(1) *Replacement quality and size.* To help ensure that they grow to maturity quickly, new replacement trees shall be the same quality of "Florida Number One", as defined in the most current edition of the Grades and Standards for Nursery Plants, published by the Florida Department of Agriculture and Consumer Services, Division of Plant Industry.

a. Oaks shall have a minimum four-inch ~~caliper~~DBH and twelve-foot height at time of installation.

b. All other new replacement trees shall have a ~~minimum two-~~ 4 (4) inch ~~caliper~~DBH and ten-foot height at time of installation.

c. Palms shall have a minimum clear trunk height of eight (8) feet at time of installation.

d. New replacement shade trees shall be of a species typically yielding an average mature crown spread of no less than thirty (30) feet in Northeast Florida and shall be chosen from the Atlantic Beach Recommended Species List. Upon approval of the administrator, alternate species not appearing on the recommended list may be utilized, but in no case shall trees from the Atlantic Beach Prohibited Species List, also maintained and published by the ~~city~~City, be utilized for mitigation credit.

e. In the event that a property cannot reasonably accommodate required mitigation on site, the property owner can get replacement credit for planting trees on an immediately adjacent neighbor's property. For vacant lots only, the property owner may get replacement credit for planting trees on any private property within one-quarter (¼) mile of the vacant lot. This shall only be done as an alternative to payment into the tree fund when it can be proven that a site cannot fit required replacement plantings. A signed letter from the property owner accepting nearby off-site mitigation plantings and maintenance obligations shall be attached with the tree permit application.

f. Atlantic Beach Recommended Species List. Replacement trees shall [be] selected from the following list. This list was created based on hardiness, disease and pest resistance, availability, and size variance. No mitigation credit will be approved for trees that are not on this list, unless approved by the administrator.

CITY OF ATLANTIC BEACH RECOMMENDED TREE LIST

SHADE TREES

Common Name	Botanical Name
Ash, Green	Fraxinus pennsylvanica
Ash, Water	Fraxinus caroliniana
Bay, Loblolly and Red	Gordonia lasianthus
Cedar, Southern Red	Juniperus silicicola
Cypress, Bald	Taxodium distichum
Cypress, Pond	Taxodium ascendens
Elm, American or Florida	Ulmus americana
~~Elm, Florida~~	~~Ulmus american floridana~~
Hickory, Mockernut	Carya Tomentosa
Hickory, Pecan	Carya illinoensis
Hickory, Pignut	Carya glabra
Hickory, Water	Carya aquatica

~~Loquat, Japanese Plum~~	~~Eriobotrya japonica~~
Magnolia, Southern	Magnolia grandiflora
Magnolia, Sweetbay	Magnolia virginiana
Maple, Florida	Acer barbatum
Maple, Red	Acer rubrum
Oak, Live	Quercus virginiana
Oak, Shumard Red	Quercus shumardii
Oak, Swamp Chesnut	Quercus michauxii
Pine, Loblolly	Pinus taeda
Pine, Long-leaf	Pinus palustris
Pine. Pond	Pinus serotina
Pine, Slash	Pinus elliottii
Sugarberry	Celtis laevigata
Sweetgum	Liquidambar styraciflua
Sycamore	Platanus occidentalis
Tupelo	Nyssa sylvatica

PALM TREES

Common Name	Botanical Name
Palm, Cabbage	Sabal palmetto
Palm, Canary Island Date	Phoenix canariensis
Palm, Pindo	Butia capitata
Palm, Sylvester Date Palm	Phoenix sylvestris
Palm, Washington	Washingtonia robusta

UNDERSTORY OR ORNAMENTAL TREES

Common Name	Botanical Name
Cedar, Red	Juniperus virginiana
Crape Myrtle	Lagerstroemia indica
Elm, Winged	Ulmus alata
Holly, American	Ilex opaca
Holly, Dahoon	Ilex cassine
Holly, East Palatka	Ilex attenuata
Holly, Yaupon	Ilex vomitoria
Loquat, Japanese Plum	Eriobotrya japonica
Oak, Myrtle	Quercus myrtifolia
Oak, Sand Live	Quercus geminata

~~Podocarpus, Yew~~	~~Podocarpus macrophyllus~~
~~Privet, Glossy~~	~~Ligustrum lucidum~~
~~Privet, Japanese~~	~~Ligustrum japonicum~~
Redbud	Cercis canadensis
Riverbirch	Betula nigra
Wax Myrtle	Myrica cerifera
White Fringetree	Chionanthus virginicus
Willow, Carolina	Salix caroliniana

(2) *Selection criteria.*

a. All oaks removed pursuant to a permit shall be mitigated with the preservation, relocation, or planting of oaks, unless payment is made to the tree fund in accordance with section 23-37. Replacement credit for oaks shall be limited to the species of oak trees listed on the Atlantic Beach Recommended Species List. Upon approval of the administrator, hardwood species yielding similar canopy may be used to mitigate removed oaks.

b. The planting or relocation of palm trees may only be used as mitigation for removed palm trees.

c. When a Designated Maritime Species is removed, mitigation credit shall only be given for the planting, preservation, or relocation of a Designated Maritime Species. This shall not be limited to the exact same species. When a Designated Maritime Species is removed, at least twenty-five (25) percent of mitigation shall be provided on site in the form of replacement. Incentive credit shall be granted for the use of Designated Maritime Species when replacing regulated trees that are not a Designated Maritime Species. The incentive credit is equal to two (2) times the normal replacement credit. For example, if one(1), ten-inch DBH southern magnolia tree is removed, any tree(s) planted for mitigation credit must be one (1) of the Designated Maritime Species. However, if one (1), ten-inch palm tree is removed, any tree planted for mitigation credit that is a Designated Maritime Species will receive double credit (i.e. one (1), four-inch caliper live oak will receive eight (8) inches of mitigation credit).

(3) *Placement criteria.*

a. *Avoidance of underground utilities.* No trees except those with a normal mature height of less than thirty (30) feet may be planted within five (5) linear feet of the centerline of any utility easement.

b. *Avoidance of aboveground utilities and public facilities.* No trees may be planted closer than the following distances to any curbs, curb lines, sidewalks or aboveground utilities than the following, except for plans demonstrating no conflict with existing aboveground utilities or public facilities, and approved by the administrator:

1. Small trees or palms with normal mature height of fifteen (15) to thirty (30) feet shall have a minimum setback of three (3) feet.
2. Medium trees or palms with normal mature height of thirty (30) to fifty (50) feet shall have a minimum setback of six (6) feet.
3. Large trees with normal mature height of fifty (50) feet or more shall have a minimum setback of ten (10) feet.

c. *Spacing.* The following spacing requirements shall serve as general guidelines for the ~~optimal~~ growth and viability of trees~~, though trees may be planted closer together upon approval of the administrator~~:

1. ~~Small~~All trees ~~or palms with normal mature height~~shall be spaced not less than five (5) feet apart from other trees and be no less than five (5) feet away (measured from the base of ~~fifteen (15) to~~the tree) from homes, pools, driveways, and other impervious areas.
2. Medium and large trees with normal mature height greater than thirty (30) feet shall be spaced at least ten (10) feet apart and and not less than 10 feet from homes or other built structures.

~~2. Medium trees or palms with normal mature height of thirty (30) to fifty (50) feet shall be spaced at least twenty (20) feet.~~

~~3. Large trees with normal mature height of fifty (50) feet or more shall be spaced at least thirty (30) feet.~~

~~4~~

3. Spacing of two (2) or more trees of differing sizes shall be based upon the spacing requirements of the largest tree.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-34. Maintenance and monitoring requirements.

The property owner shall be responsible for maintaining the health of any preserved, relocated or replacement trees for three (3) years from the date of the final inspection approving the work. Failure to ensure the viability of the tree(s) is a violation of this chapter and subject to section 23-46.

(1) *Determination of success.* The property owner shall analyze the condition of each tree, three (3) years after the tree was preserved, relocated or planted. This analysis shall be submitted to the ~~city~~City for inspection and approval within thirty (30) days of being made.

Should any tree die or be in a state of decline within three (3) years of being preserved, relocated, or, the property owner shall be required to replace the tree within sixty (60) days of that determination. The three-year monitoring and approval period shall begin anew whenever a tree is replaced. If that replacement tree is found not to be viable at the end of the second monitoring period, the property owner may pay the appropriate

amount into the tree fund in lieu of planting a third replacement tree. If the property owner fails to replace the tree or to pay the appropriate amount into the tree fund within sixty (60) days, the property owner shall be in violation of this chapter.

(2) *Large-scale projects.* If a permit includes the relocation of ten (10) or more trees, or the planting of one hundred (100) or more replacement trees, the determination of success for the overall mitigation effort shall be based upon a percent survival rate. A successful project shall be one (1) in which ninety (90) percent or more of the newly planted or relocated trees are determined to be viable after a period of three (3) years. If a large-scale project is determined to be successful on this basis, additional replacement trees will not be required. If this success rate is not met, then section 23-34(1) shall apply.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-35. Elimination of undesirable species.

(a) ~~*Guidelines.*~~ *.* The natural vegetative communities existing within the ~~city~~City shall be protected by the control and elimination of non-native invasive species. ~~To that end, the following guidelines shall apply:~~

~~(1) Planting of species on the Atlantic Beach~~ Prohibited ~~Species List~~species listed in this section shall not be ~~accepted~~used for mitigation credit.

~~(2)~~ Removal of ~~non-native invasive~~the listed species ~~from nonresidential properties (excluding jurisdictional wetlands), shall~~ shall be completed~~, whenever practicable,~~ as a requirement for approval of any development permit issued by the ~~city or the issuance of a certificate of occupancy if applicable.~~

~~(3) Procedures for the control and elimination of non-native~~City. All removal methods shall avoid spreading invasive species and shall ~~in no way promote the proliferation of the species through the dispersal of seed or other means.~~

~~(4) Procedures for the control and elimination of non-native invasive species shall in no way~~not harm ~~or cause the decline of desirable species that are to be preserved, planted or relocated.~~ native plants.

(b) *Atlantic Beach Prohibited Species List.* The following species or sub-species of trees are not regulated trees under this chapter, and are exempt from mitigation. The trees on this list shall not be accepted for mitigation credit.

Australian pine	casuarina cunninghamiana
Australian pine thicket	casuarina glauca
Bischofia	bischofia javanica
Brazilian pepper	schinus terebinthifolius
Camphor tree	cinnamomum camphora
Carolina laurelcherry	prunus caroliniana
Carrotwood	cupaniopsis anacardioides
Castor bean	ricinus communis
Catclaw mimosa	mimosa pigra

Chinaberry tree	melia azedarach
Chinese privet	Ligustrum sinensis
Chinese tallow	sapium sebiferum
Chinese wisteria	wisteria sinensis
Climbing cassia	senna pendula
Earleaf acacia	acacia auriculiformis
Golden Raintree	koelreuteria paniculata
Guava	psidium guayava
Jambolan	syzygium cimini
Laurel fig	ficus microcarpa
Lead tree	leucanea leucocephala
Melaleuca tree	melaleuca quinquenervia
Mimosa tree	albizia julibrissin
Orchid tree	bauhinia variegata
Paper mulberry	Broussonetia papyrifera
Schefflera	schefflera actinophylla
Seaside mahoe	thespesia populnea
Shoebutton ardesia	ardisia elliptica
Strawberry guava	psidium cattleianum
Woman's tongue	albizia lebbeck

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-36. Elimination of contagious diseased and pest-infested trees.

The natural and cultivated vegetative communities existing within the ~~city~~City shall be protected by the control and elimination of trees afflicted with rapid-spreading contagious diseases and pests. Upon identification and/or confirmation of such infection or infestation by a certified arborist, the ~~city~~City shall give notice to the property owner to remove the afflicted tree. Such tree removal shall be exempt from the permit application requirements, as set forth in section 23-22. Further, mitigation shall not be required, provided however, the subject property is in compliance with minimum tree requirements, as set forth in section 23-30.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-37. Payment in lieu of replacement/relocation.

It is the intent of this chapter that all reasonable methods be used to replace or relocate trees onsite. Payment to the tree fund in lieu of replacement or relocation shall not be construed as a routine mitigation option. Rather, it shall be reserved for cases where the ability to replace or relocate trees onsite is restricted by circumstances related to federal, state or local regulations and requirements including but not limited to conflicts with rights-of-way, utilities, stormwater facilities, septic fields and environmentally sensitive areas. The value to be paid into the tree

fund shall be established ~~and adopted~~to be not less than the City of Jacksonville's annual tree mitigation rate and be reviewed by the ~~city commission, and payments~~ESC. Payments to the tree fund may be approved in accordance with the following provisions:

(1) Applications for tree or vegetation removal permits for all uses and development shall replace or relocate required mitigation onsite, except in cases where the administrator finds, based upon the above stated conditions, that onsite mitigation is not possible. Upon approval of a mitigation plan by the administrator, a permit shall be issued by the administrator, and the remaining balance of the required mitigation shall be payable to the tree fund prior to permit issuance.

(2) Where payment in lieu of preservation, relocation, or replacement is approved, as set forth in preceding subsections (1) or (2), the applicant shall pay the equivalent value of the portion not mitigated, to the ~~city's~~City's tree fund. The approved mitigation payment shall be payable to the tree fund prior to permit issuance.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Secs. 23-38, 23-39. Reserved.

DIVISION 5. AREAS OF SPECIAL CONCERN

Sec. 23-40. Applicability.

There exist within the ~~city~~City certain areas which contain trees or vegetation of special value and concern, or areas of such substantial social, cultural, historical, ecological, environmental or economic significance that they may warrant added measures of protection.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-41. Historic corridors and heritage trees.

(a) *Designation.* The ~~city commission~~City Commission may by resolution designate historic corridors or individual heritage trees. In doing so, the ~~city commission~~City Commission shall specifically identify those streets, or portions thereof, or trees, which shall be so designated. Trees, tree groups, or landscape groups so designated may be marked by signs or markers of a type to be determined by the ~~city commission.~~City Commission. Said signs or markers shall contain the words "Heritage Tree" or "Historic Preserve Corridor" and shall denote the date of designation and the historic significance of the tree, tree group, or landscape group. Upon designation of corridors, professional tree surveys shall be obtained and placed in the public record.

~~As of May, 2021 the only designated~~Designated historic ~~corridor is the public~~corridors:

(1) Public colonnade of palms in the ~~city~~City right-of-way on the east and west sides of both Ocean Boulevard and East Coast Drive from Atlantic Boulevard to Tenth Street.

(2) Public colonnade of palms in the City right-of-way on 7th Street between Ocean Boulevard and East Coast Drive.

(b) *Criteria.* In considering whether a tree shall be designated as a heritage tree, the ~~city~~City commission may consider the intrinsic value of the tree due to its age, size, species, and/or cultural, ecological or historical significance or some other contribution to the ~~city's~~City's or a neighborhood's character.

In considering whether roadways or portions thereof shall be designated as historic corridors, or when a private property owner desires to protect a tree colonnade on private property, the ~~city commission~~City Commission may consider the following criteria:

(1) The presence of historically or culturally significant tree coverage or landscaping, as individual plants or in groupings.

(2) The presence of significant historic or architectural structures with associated tree coverage or landscaping.

(3) Requests from private property owners may be made for colonnades on their property. In the event that colonnades on private property are designated as a historic corridor or a portion thereof, it shall be the responsibility of the private property owner to record a restrictive covenant as is necessary to make such designation binding on subsequent owners of their property.

(c) *Documentation.* The administrator shall maintain a record of all historic corridor and heritage tree designations and their location shall be reflected on ~~city~~City maps as such.

(d) *Mitigation.* Mitigation required for the removal of designated heritage trees and trees within designated historic corridors, shall be at a higher rate than removal of nondesignated tree(s), as specified in section 23-33, as an extra measure to strongly encourage protection of such irreplaceable trees. Every effort should be made to preserve a tree that meets the definition of a Heritage Tree.

(e) *Effect of historic corridor designation.* Trees, colonnades, and landscape areas ~~along~~visible from roadways, ~~or portions thereof,~~ which have been designated as historic corridors or heritage sites shall not be damaged, mutilated or removed from public or private property by any person or entity, public or private, without prior approval of the ~~city commission~~City Commission, except in the event of an emergency. Removal shall be permitted in the following conditions:

(1) When safety of the general public or adjacent residents or property is likely threatened by such historic trees; or

(2) ~~Removal is necessary for~~Special circumstances to allow approved ingress ~~to and/~~or egress from the property~~; or~~

~~(3) Special circumstances exist,~~ such as ~~necessity of~~ handicap accessibility~~, which require removal; or~~. This exception does not include merely a preferred building design.

~~(4) There is another similar valid, legitimate reason for removal.~~(3)

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(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Secs. 23-42—23-45. Reserved.

DIVISION 6. VIOLATIONS, ENFORCEMENT AND PENALTIES

Sec 23-46. Violations.

Violations by any person of this chapter, including without limitation failure to make proper application for a tree or vegetation removal permit as required by these provisions, or failure to implement any requirements or conditions of a tree or vegetation removal permit, shall be deemed a violation of this chapter, and except as expressly provided in this chapter, shall be subject to code enforcement procedures as set forth within chapter 2, article V, division 2 of this Code of Ordinances and any other remedies available under applicable law.

(1) *Development activity.* It shall be a violation of this chapter for any person(s) to engage in development or other activity, which has the potential to damage, destroy or remove, or cause the destruction or removal of any tree or vegetation as regulated herein, without complying with all applicable provisions of this chapter.

(2) *Compliance with approved permit.* It shall be a violation of this chapter for any person who has obtained a permit from the ~~city~~City pursuant to the requirements of this chapter to fail to comply with the requirements of the approved permit and any conditions attached thereto.

(3) *Compliance with general conditions of permit.* The following minimum conditions shall apply to every permit issued pursuant to this chapter, and violation of or failure to comply with any such condition(s) shall be a violation of this chapter:

a. *Permit and plans onsite.* Approved permits and plans shall be available onsite at all times during development or tree removal activity.

b. *Responsible individual onsite.* Whenever site work is ongoing, there shall be an individual at the site who shall be responsible for the ongoing work and who shall have the familiarity with the project to ensure work is proceeding according to approved plans. This provision is not intended to require that a single individual remain onsite during all operations, only that at all times there shall be a designated person in responsible charge.

(4) *Maintenance requirements.* It shall be a violation of this chapter for any person(s) who is engaged in development activity on property located within the ~~city~~City or in accordance with a permit issued by the ~~city~~City pursuant to this chapter, or who has obtained title to property upon which such activities have taken place, to fail to comply with the minimum standards and maintenance requirements set forth herein.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-47. Notice of violation.

Whenever the administrator determines that a violation of this chapter has occurred, the administrator shall immediately issue written notice to the person(s) in violation, identifying the nature and location of the violation and specifying that remedial action is necessary to bring the violation into compliance. The person(s) in violation shall immediately, conditions permitting, commence remedial action and shall have up to seven (7) calendar days after the receipt of notice, or such ~~longer~~ time as may be specified in the notice, to complete the remedial actions required to bring the violation into compliance with this chapter.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-48. Stop work order.

(a) *Authority to stop work.* The ~~city manager~~City Manager or designee of the ~~city manager~~City Manager shall have the authority to immediately issue a stop work order in any of the following circumstances:

(1) Whenever land is being cleared without an approved permit or in a manner inconsistent with the approved permit;

(2) Upon the failure of the permittee, or failure of the property owner if no permit exists, to take immediate corrective action when there is a danger to life or property;

(3) Whenever ongoing noncompliant work is not immediately and permanently stopped upon receipt of a written or oral notice of violation;

(4) Whenever protection measures have not been implemented or maintained and danger to regulated trees or regulated vegetation exists or may be imminent;

(5) Whenever remedial work required by notice of violation pursuant to subsection (a) of this section is not completed in the time period specified; or

(6) Upon failure to post or have the approved permit and plans available onsite.

(b) *Content and scope of stop work order.* The stop work order shall specify the circumstances that have resulted in issuance of the order. It shall also direct that all work be stopped other than such remedial work as is deemed necessary to bring the violation into compliance, or it may specify the cessation of specific work by functional nature, such as land clearing, regulated tree or regulated vegetation removal, grading, roadway construction, building erection or utility construction. The order may apply to the entire project or to geographical portions of the project that may be individually specified.

(c) *Failure to comply after notice of violation and stop work order.* If the person(s) in violation fails to complete the required remedial action within the prescribed time, or continues any development activity in violation of a stop work order, the administrator may initiate code enforcement action pursuant to chapter 2, article V, division 2 of the Code of Ordinances, or other remedies as authorized by law.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-49. Requirement for emergency or immediate corrective action.

Where it is determined by the ~~city~~City that failure to maintain stormwater management facilities, erosion, sediment or tree/vegetation protection controls, or failure to conform to the provisions of this chapter or permit conditions, is resulting in danger or damage to life or property, the ~~city~~City may require immediate corrective action. Protection controls which are breached due to development activity, wind, rain or other factors shall be repaired within twenty-four (24) hours of breach. Failure to take such immediate corrective action when notified shall constitute a violation of this chapter. If immediate corrective measures are not taken by the permittee or property owner and the conditions of the site are such that there is danger or hardship to the public, the ~~city~~City may enter upon lands, take corrective actions, and place a lien on the real property of such person(s) to recover the cost of the corrective measures. In addition, the administrator may revoke any permit issued pursuant to this chapter.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-50. Code enforcement action.

Failure to complete remedial actions required to bring the violation into compliance with this chapter shall result in code enforcement action pursuant to chapter 2, article V, division 2 of the Code of Ordinances as well as other remedies available under applicable law.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

Sec. 23-51. Penalties.

(a) *General provisions.* Any person(s) violating a provision of this chapter shall be punishable according to the law or in accordance with the findings of the duly appointed special magistrate.

(1) Violations of this chapter are considered irreparable and irreversible in nature.

(2) Each day any violation continues shall constitute a separate offense.

(3) Each regulated tree removed from a site in violation of these regulations shall constitute a separate offense.

(4) Each acre or fraction thereof, of land cleared in violation of these regulations shall constitute a separate offense.

(5) Person(s) charged with violations of this chapter may include:

a. The owner, agent, lessor, lessee, contractor or any other person(s) using the land, building or premises where such violation exists.

b. Any person(s) who maintains any land, building or premises upon which a violation exists.

c. Any person(s) who knowingly commits, takes part, or assists in such violation.

(b) *Building permits.* No building permit shall be issued for a site while any violation of this chapter exists on the subject site.

(c) *Injunction.* Any affected person(s) may seek an injunction against any violation of the provisions of this chapter and recover from the violator such damages as he or she may suffer including, but not limited to, damage to property as a result of development or failure to maintain, in violation of the terms of this chapter.

(d) *Sanctions for failure to obtain a permit.*

(1) Regulated trees or regulated vegetation removed in violation of this chapter shall require an after-the-fact permit, the fee for which shall be two (2) times the normal established application fee specified in section 23-26. In addition, as a condition of the permit, the applicant shall immediately complete all remedial work as necessary to stabilize the site and mitigate all damage to the site and adjacent properties.

(2) Regulated trees removed in violation of this chapter shall be assessed at two (2) times the normal established rate of mitigation specified in section 23-33.

(3) If a lot, parcel, site or portion thereof, has been cleared such that the administrator is unable to determine with reasonable certainty the number and size of regulated trees and/or regulated vegetation removed in violation of this chapter, analysis of prior aerial photography, available photos, or other ~~such accepted scientific~~ methodology shall be used to make a determination as to the loss of canopy and/or land cover for the purpose of assessing mitigation. A civil fine of ~~five~~ten dollars ($~~5~~10.00) per square foot of canopy or land cover lost ~~shall~~may be assessed by the administrator, and shall be payable to the tree fund within seven (7) days of such assessment. No further work or development shall proceed until the ~~city~~City is in receipt of any such assessed fine.

(4) Any person(s) exhibiting a documented history of chronic or repeated violations of this chapter shall, upon third offense, be reported to the Florida Department of Business and Professional Regulation, as well as any other authority governing licensing, registration or certification of individuals or businesses.

(Ord. No. 95-21-119, § 2(Exh. A), 7-12-21)

~~**Sec. 23-52. Reserved.**~~

~~Ord. No. 95-25-124, § 1, adopted May 27, 2025, repealed § 23-52, which pertained to environmental stewardship committee—intent and derived from Ord. No. 95-21-119, § 2(Exh. A), adopted July 12, 2021. Provisions relating to the environmental stewardship committee can now be found in division 7 of this article.~~

~~**Secs. 23-53, 23-54. Reserved.**~~

DIVISION 7. – ENVIRONMENTAL STEWARDSHIP COMMITTEE

~~Sec.~~ Sec. 23-55~~.~~ -. Purpose.

The maritime forest in Atlantic Beach is core to the ~~city's~~City's identity as a small coastal village. The tree canopy creates beauty, provides a home for wildlife, functions as an element of the water management system and enhances property values. It is in the best interest for this committee to be the stewards of the tree canopy through advocacy, assessment, maintenance, planting and preservation of this natural resource. The ~~city~~City parks provide open spaces for recreation, exercise, wildlife habitat, relaxation and encounters with the natural world. This committee intends to support the community to provide a variety of park spaces that are well maintained, accessible and secure. This committee shall take the lead and set high community standards in the beautification and maintenance of public spaces located within the ~~city~~City. The Atlantic Ocean, the St. Johns River and the Intracoastal Waterway have a great deal of influence on the micro climate, drainage issues and the diverse vegetation and wildlife that thrive within the ~~city~~City. The care and health of the coast and marsh must be paramount in every recommendation made by this committee about the use of our land, water system and tree canopy.

(~~1~~a) It shall be the purpose of the ~~environmental stewardship committee~~Environmental Stewardship Committee:

~~a.~~(1) To study and make recommendations to the ~~city commission~~City Commission and ~~city~~City staff with respect to the ~~city's~~City's:

~~1~~a. Maritime forest;

~~2~~b. Parks, preserves and open spaces;

~~3~~c. Beautification of public and private spaces; and

~~4~~d. Environmental stewardship.

~~b.~~(2) To act as a motivating and coordinating body to encourage joint public and private participation in promoting these purposes.

~~(Ord. No. 95-25-124, § 1, 5-27-25)~~

Sec. 23-~~ -~~56.~~ ~~Duties and responsibilities.

(a) *Scope of activities.* The ~~environmental stewardship committee~~Environmental Stewardship Committee shall provide guidance, support, and suggest priorities and projects to the ~~city commission~~City Commission and ~~city manager.~~City Manager. The ~~city commission~~City Commission will have an annual joint ~~commission~~Commission and ESC workshop to discuss the ~~committee's~~committee's priorities, suggested projects, and annual workplan. The ~~city commission~~City Commission will prioritize the ~~committee's~~committee's work plan related to these recommendations:

(1) Maritime forest~~.~~:

~~-~~a. Clarifying and strengthening the ~~city's~~City's processes and all tree and landscape related ~~city~~City codes and ordinances;

b. Monitoring the appropriate administration and enforcement of the ~~city's~~City's ordinances;

c. Promoting transparency through online access to relevant information;

d. Developing and maintaining environmental education and outreach programs about the maritime forest and relevant codes;

e. Promoting appropriate planting and care of trees on private property to owners, developers, builders, and tree/landscape service contractors;

f. Developing and maintaining a long-term tree plan that includes an assessment of the tree canopy, projecting future needs, and developing a calendar and budget for tree planting in parks, public spaces and along streets and rights-of-way;

g. Promoting tree canopy advocacy including upholding the ~~city's~~City's status as a bona fide "Tree City USA;"

h. Developing a process for systematic, review of the ~~city's~~City's enforcement of the existing tree codes, including the long-term health of trees planted for mitigation; and

i. Developing and maintaining a process for citizens to communicate possible violations to the ~~city~~City.

(2) Parks and open spaces~~.~~:

~~a~~. Developing and maintaining a long-range plan to protect, improve and beautify parks, preserves and open spaces;

b. Improving access to and amenities for parks including disability accommodations, bike paths, parking, signage and other user friendly features;

c. Expanding the ~~city's~~City's inventory of parks and conservation land through acquisition or other means; and

d. Maintaining a web-based, publicly accessible inventory of parks including their history, archeological value, rules of use, deed restrictions and conservation easements.

(3) Beautification of public and private spaces~~.~~:

~~a~~. Enhancing public spaces, including public rights-of-way, roadsides, ~~city~~City buildings, beach accesses and other publicly held properties with art, carefully maintained landscape design and plantings;

b. Incentivizing and advocating for beautification of private and commercial spaces;

c. Reducing the number and appearance of degraded or blighted public properties; and

d. Developing a design theme/community branding for signage, bus shelters, lighting and other elements of the built environment.

(4) Environmental stewardship~~.~~:

~~a.~~ a. Utilizing best practices, including a science based approach, when making any decision about development and its impact on our environment;

b. Protecting the beach, dunes, marshlands and wetlands as critical defenses in hurricane, erosion and flooding conditions;

c. Communicating the dynamics of tidal drainage and floodplain with the goal of preserving the ~~city's~~City's flood management system;

d. Reviewing the ~~city's~~City's environmental codes and ensuring enforcement of rules including, but not limited to, dumping, septic tanks and commercial pollution; and

e. Reviewing, updating and maintaining the Marsh Master Plan for adherence to current research about sea level change and wetlands preservation.

~~(Ord. No. 95-25-124, § 1, 5-27-25)~~

Sec. 23-57.~~.~~ ~~–~~ City staff administration supports.

(a) ~~(a)~~ Staff will be assigned by the ~~city manager~~City Manager or designee to provide technical and administrative support. ~~_~~Staff will assist the ~~committee~~Committee by preparing agendas, proper notice ~~_~~and minutes of meetings, and other administrative and technical services, as needed. ~~_~~The minutes will be filed with the ~~city clerk's~~City Clerks office.

(b) ~~(b)~~ Staff will be responsible for the collection and expenditure of any ~~city~~City funds in accordance with purchasing guidelines.

~~(Ord. No. 95-25-124, § 1, 5-27-25)~~

Sec. 23~~-~~ ~~–~~ 58.~~-~~ ~~–~~ Membership, terms, appointments, geographic requirements, composition.

(a) *Membership.* The committee shall~~_~~ consist of nine (9) members. The majority of the filled seats of the committee shall constitute a quorum. ~~_~~Regardless of the number of committee members in attendance, it shall take an action of the majority of the seats filled in the affirmative to pass or fail an item. No member of the committee shall hold any other public office in violation of Article ~~11~~II, Section 5(a), Florida Constitution.

(b) *Terms.*~~_~~ All members shall serve three-year terms. Members shall not serve more than three (3) consecutive three-year terms on the committee. All terms shall expire on December 31 of the proper year, provided, however, that members whose terms expire shall continue to serve until replacement appointments are effective. Any committee member who wishes to resign should submit a letter of resignation to the chairman and ~~city clerk~~City Clerk. Any vacancy during the unexpired term of an appointed member shall be filled for the remainder of the term. Should the length of

the unexpired term be less than one (1) year, then such appointment shall not count towards the maximum number of consecutive terms.

(c) *Appointments.* Committee members shall be recommended by the board member review committee and shall be approved by the commission.

(d) *Geographical requirements.* There shall be at least one (1) member representing each ~~city~~City district on the ~~committee~~Committee. Each committee member must be a full time resident of the ~~city~~City or own real property in the ~~city~~City. For the purpose of this section, full time residency shall be defined as the person's principal place of abode. Any member must immediately notify the ~~city manager, city clerk~~City Manager, City Clerk, and chair in writing upon no longer meeting the membership qualifications.

~~(e) *Composition.*~~ (e) Capacity and *composition requirements.* The evaluation and recommendations of potential members to the Commission will be based on a defined candidate criteria matrix, including how well the prospective candidate demonstrates the skills, experience, expertise, and educational background documented in the Composition section below.

To the extent possible, committee members should demonstrate at least one (1) of the following skills, experience, expertise, educational background or interests:

~~(1)~~a. Knowledge of best practices in environmental management, resilience, and sustainability;

~~(2)~~b. Land development and building construction;

~~(3)~~c. Urban planning and design;

~~(4)~~d. Arboriculture and horticulture;

~~(5)~~e. Landscape architecture;

~~(6)~~f. Environmental policy;

~~(7)~~g. Environmental ~~and constitutional~~ law;

~~(8)~~h. Community engagement; and

~~(9)~~i. Educational programming.

(f) Procedures and rules; ~~*organization*~~*Organization of* ~~*officers*~~*Officers.*

(1) ~~(1)~~ The ~~committee~~Committee shall schedule no more than two (2) monthly meetings in the ~~city commission chamber~~City Commission Chamber or other public venue.

(2) ~~(2)~~ Special meetings may be called by the ~~city manager~~City Manager or designee, ~~provided~~ with at least a forty-eight (48) ~~hours'~~hour notice.

(3) All meetings of the ~~committee~~Committee shall be properly noticed and open to the public.

(4) The ~~committee~~Committee and each member shall comply with the Florida Government in the Sunshine Law, Florida Code of Ethics for Public Officers and Employees, Florida Public Records Law, and related provisions of the ~~City's~~City's Code of Ordinances and applicable resolutions, as may be amended from time to time.

(5) The ~~committee~~Committee shall elect a chair and vice-chair at the regularly-scheduled meeting in January each year.

(6) In all cases involving points of parliamentary law, "Robert's Rules of Order" shall be the book of reference, and its rules, so far as they are applicable and not in conflict with the provisions of the ~~city's~~City's Charter, Code, or other ~~city~~City ordinances, shall be the rules of this ~~committee.~~ Committee.

(7) The committee shall establish a tree subcommittee in accordance with subsection (h) below. The tree subcommittee shall develop and recommend policies, programs, education, and incentives aimed at preserving, protecting, and enhancing the ~~community's~~community's tree canopy. .

(8) The committee shall not create subcommittees. without approval of the City Manager.

(g) *Removal of members.* Any member on the committee may be removed for cause by the ~~city commission~~City Commission upon written charges and after public meeting. Any member who fails to attend three (3) ESC meetings in three (3) consecutive months without prior notice to the director of planning and community development or his/her designee and without reasonable cause shall have their seat declared vacant by the committee. The vacancy shall be promptly reported to the ~~city clerk~~City Clerk and filled by the ~~city commission~~City Commission.

(h) *Establishment of ~~tree subcommittee~~Tree Subcommittee, membership, terms.*

(1) There is hereby established a ~~tree subcommittee~~Tree Subcommittee of the ~~environmental stewardship committee~~Environmental Stewardship Committee, referred to in this subsection as the subcommittee. The subcommittee shall systematically review tree permits submitted to the ~~city~~City for completeness and to determine compliance with the provisions of this chapter 23 as more particularly described in this subsection. The subcommittee shall produce a ~~semiannual~~semi-annual report on ~~foe~~the tree permitting process. The subcommittee shall consist of three (3) members and one (1) alternate member. The alternate shall serve in the case of the absence of any of the three (3) members. The members of the ~~environmental stewardship committee~~ESC may volunteer to serve on the subcommittee and shall be appointed to the subcommittee by the ~~environmental stewardship committee.~~ESC. All of the members of the subcommittee shall be members of the ~~environmental stewardship committee.~~ESC. The ~~environmental stewardship committee~~ESC shall appoint or remove the members of the subcommittee by a simple majority vote. Filling vacancies shall take place at the next regular scheduled meeting of the ~~environmental stewardship committee~~ESC after a seat on the subcommittee has

become vacated. Members of the subcommittee may serve for as long as they serve on the ~~environmental stewardship committee~~ESC.

(2) Organization of ~~tree subcommittee.~~Tree Subcommittee.

a. The ~~environmental stewardship committee~~ESC shall establish a regular meeting schedule of the ~~tree subcommittee.~~Tree Subcommittee.

b. The administrator or designee shall attend all meetings of the subcommittee. A ~~city~~City staff member designated by the ~~city manager~~City Manager shall act as clerk for the subcommittee. The clerk shall be responsible for the clerical administration of the subcommittee. The clerk shall also be responsible for the maintenance and preservation of all records of the subcommittee in coordination with the ~~city clerk's~~City Clerk's office.

c. The subcommittee shall utilize the rules of the ~~environmental stewardship committee~~ESC. Robert's Rules of Order shall be followed to conduct meetings. All meetings shall be open to the public. The subcommittee shall keep minutes of the proceedings, recording the vote of each member upon each question or if absent or failing to vote, indicating such facts. It shall keep records of its examinations and other official actions, all of which shall be promptly filed with the ~~city clerk's~~City Clerk's office and shall become public record. The subcommittee will operate in compliance with Florida's Government in the Sunshine Laws.

~~(Ord. No. 95-25-124, § 1, 5-27-25)~~

Sec. 23-59. Liability to ~~city.~~City.

The ~~city commission~~City Commission shall consider the recommendations proposed by the ~~committee~~Environmental Stewardship Committee, but nothing in this section or otherwise shall be construed as authorizing or empowering the ~~committee~~Committee to impose any liability of any nature, financial or otherwise, upon the ~~city~~City, without ~~city~~City approval.

~~(Ord. No. 95-25-124, § 1, 5-27-25)~~