

ORDINANCE 2019-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA AMENDING ARTICLE 37 OF THE LAND DEVELOPMENT CODE, NATURAL RESOURCE PROTECTION; SPECIFICALLY RESCINDING THE CURRENT SECTION 37.02, NATIVE CANOPY TREE PROTECTION, AND CREATING A NEW SECTION 37.02, UNINCORPORATED AMELIA ISLAND TREE PROTECTION AND REPLACEMENT, CREATING THE AMELIA ISLAND TREE COMMISSION, CREATING THE AMELIA ISLAND TREE FUND, PROVIDING FOR THE AMELIA ISLAND TREE PLANTING PROGRAM, SETTING MINIMUM TREE PRESERVATION AND REPLACEMENT STANDARDS, DEFINING A SPECIMEN TREE; AMENDING ARTICLE 32 OF THE LAND DEVELOPMENT CODE, DEFINITIONS; PROVIDING FOR PENALTY; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Nassau County adopted the Natural Resource Protection Ordinance, 2008-01, which included Section 37.02 of the Land Development Code (Native Canopy Tree Protection); and

WHEREAS, Nassau County adopted revisions to Section 37.02 LDC primarily focused on tree protection and preservation in 2013 via Ordinance 2013-06; and

WHEREAS, Understanding the importance of analyzing the effectiveness of Ordinance 2013-06, the Planning and Zoning Board finds that additional amendments to Section 37.02 LDC are necessary to adequately fulfill the intent of the regulations; and

WHEREAS, Amelia Island is a barrier island on the east coast of Florida that contains a maritime forest - one of the rarest coastal biological communities; and

WHEREAS, Of the east coast barrier islands those islands within the Georgia Embayment, Amelia Island being one, have among the most vigorous maritime forest; and

WHEREAS, The Amelia Island maritime forest provides communal benefits that are integral to the health, safety and general wellbeing of the Island and the inhabitants thereon; and

WHEREAS, Those communal benefits that preserve the health, safety and general wellbeing of the inhabitants of Amelia Island include, among others, storm protection, stormwater storage and treatment, soil stabilization and strengthening, and serve to counter heat island effect; and

WHEREAS, The communal benefits provided by a mature maritime forest cannot be replicated through new plantings in a reasonable timeframe; and

WHEREAS, The Planning and Zoning Board further recognizes that effective tree protection requires the coordination of other design standards such as landscaping, utility infrastructure placement, stormwater management and vehicle parking and thus amendments to other portions of the Land Development Code are necessary; and

WHEREAS, The Planning and Zoning Board created a working group with a directive to conduct fact finding to present information to the Nassau County Planning and Zoning Board; and

WHEREAS, The working group has held fact finding meetings and provided draft ordinances to the Planning and Zoning Board and staff; and

WHEREAS, The Nassau County Comprehensive Plan, Policy CS.02.01, states that the “County shall maintain or expand regulations in the Land Development Code (LDC) that provide for tree protection standards on Amelia Island.”; and

WHEREAS, The Planning and Zoning Board conducted a public hearing on this Ordinance on _____ and voted to recommend approval to the Board of County Commissioners and legal notice of this Ordinance has been provided in accordance with Sec. 125.66, F.S.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA:

SECTION 1. FINDINGS

This Ordinance is consistent with the Nassau County Comprehensive Plan, in particular Policy CS.02.01.

SECTION 2. AMENDMENT

37.02 Unincorporated Amelia Island Tree Protection and Replacement

A. Purpose and Intent:

The purpose of this section is to provide standards and regulations to ensure a minimum number of trees on any lot or parcel, protect and preserve native tree species, protect and preserve the natural landscape, foster and encourage maintenance of natural vegetation, and minimize loss of trees to development within the unincorporated areas of Amelia Island. It is the intent of the Board of County Commissioners of Nassau County that:

1. A balanced, equitable and practical approach to preserving the Amelia Island tree canopy and fostering the establishment of new trees on Amelia Island be implemented;
2. Amelia Island is a barrier island on the east coast of Florida that contains a maritime forest - one of the rarest coastal biological communities; and
3. Of the east coast barrier islands those islands within the Georgia Embayment, Amelia Island being one, have among the most vigorous maritime forest; and
4. The Amelia Island maritime forest provides communal benefits that are integral to the health, safety and general wellbeing of the Island and the inhabitants thereon; and
5. Those communal benefits that preserve the health, safety and general wellbeing of the inhabitants of Amelia Island include, among others, storm protection, stormwater storage and treatment, soil stabilization and strengthening, and serve to counter heat island effect; and
6. The communal benefits provided by a mature maritime forest cannot be replicated through new plantings in a reasonable timeframe;

7. Preservation of the Amelia Island's existing tree canopy is achieved by managing the impact of development and preventing unreasonable or unnecessary damage to the community's existing native tree canopy and vegetative understory;
8. The diversity of tree species indigenous to Amelia Island shall be maintained;
9. Existing mature growth native trees important to Amelia Island's tree canopy are protected and maintained to the fullest extent possible;
10. Structures and all impervious surfaces will be placed in such a way as to protect the survivability and substantial growth of the healthiest canopy trees on the property;
11. The natural environment is preserved, enhanced, and restored through the protection and establishment of native trees and existing natural systems for the enjoyment of present and future populations;
12. Achieving greater energy conservation by maximizing the shading and cooling effects of existing native, healthy trees and native replacement trees;
13. The unique aesthetic character of Amelia Island is preserved, enhanced, or restored.
14. The communal benefits of a mature maritime forest and natural areas are preserved as a means to protect the public health, safety and general welfare of inhabitants of Amelia Island.
15. All properties located in the unincorporated areas of Amelia Island shall maintain compliance with this Article as outlined in 37.02(B) unless and until annexation into the City of Fernandina Beach is fully executed at which time any further development action is subject to rules and regulations of the City of Fernandina Beach.

B. Applicability:

1. The terms and conditions of Section 37.02 LDC shall apply to all lands in the unincorporated areas of Amelia Island.
2. Nothing herein shall exempt any property in the unincorporated areas of Amelia Island from or waive any landscaping, minimum tree planting, open space or buffer requirement described in Sections 37.03, 37.05 and/or 37.06 LDC unless explicitly expressed in this section.
3. Any tree protection plan approved by Nassau County prior to (insert effective date) remains in effect. Nothing herein shall be construed to invalidate a previously approved tree protection plan. However, Sections K, L, M, O, P, Q, R, and S shall apply to tree protection plans approved by Nassau County prior to (insert effective date).

C. Regulatory Framework:

The regulations set forth herein establish the following:

1. Creation of an Amelia Island Tree Commission.
2. Definition of a protected tree.
3. The permissible means by which a protected tree may be removed.
4. A penalty for violation of this Article.

D. Amelia Island Tree Commission:

1. There is hereby created an unincorporated Amelia Island Tree Commission (AITC).
2. Appointments. The AITC shall consist of five (5) members to be appointed by the Nassau County Board of County Commissioners. The AITC shall, to the extent practicable, include:
 - a. Five (5) Voting Members

- i. County Planning and Zoning Board Representative, recommended by Planning and Zoning Board
 - ii. A Florida licensed Landscape Architect
 - iii. International Society of Arboriculture (ISA) Certified Arborist, preference given to a Board Certified Master Arborist
 - iv. Two lay citizens who must be residents of the unincorporated area of Amelia Island, and have demonstrated educational and/or professional backgrounds in ecology, landscape architecture or design, environmental sciences, forestry, biology, or other similar related fields.
 - b. Ex Officio Non-Voting Members
 - i. Nassau County Planning and Economic Opportunity Department Representative appointed by the County Manager
 - ii. Nassau County Public Works Department Representative as appointed by the County Manager
 - iii. Nassau County Engineering Services Department Representative as appointed by the County Manager
 - iv. Nassau County's Institute of Food and Agricultural Sciences (UF-IFAS) Representative approved by the County Manager
3. Administration
- a. Terms. Voting members shall be appointed for three (3) year staggered terms. Any member appointed to the AITC serves at the pleasure of the Board of County Commissioners. Members shall serve no more than two (2) consecutive terms.
 - b. Chair/Conduct of Business
 - i. The AITC shall elect a chair and vice-chair each year. No person shall serve more than two (2) consecutive terms as chair or vice-chair.
 - ii. The AITC shall meet, at a minimum, monthly at a regular date and time in accordance with Florida public meeting laws.
 - iii. Meetings shall be held in accordance with Robert's Rules of Order.
4. Powers and Duties. The AITC responsibilities are as follows:
- a. Develop, recommend and forward to the Nassau County Board of County Commissioners a tree planting program as outlined in section (M) to be updated at a minimum every five (5) years. Said recommendation shall first be reviewed by the County Manger and Office of Management and Budget Director to determine a financial impact. Said financial impact and recommendation shall be presented to the Board of County Commissioners by the County Manager;
 - b. Review restoration plans as outlined in section (U);
 - c. Hear and decide administrative appeals from provisions of this Ordinance as outlined in section (P);
 - d. The AITC may recommend to the Board of County Commissioners that:
 - i. Periodic surveys of trees and vegetation on the unincorporated area of Amelia Island be conducted;
 - ii. A survey and record of significant trees be established and maintained;
 - iii. Recommend new canopy roads on Amelia Island;
 - iv. Recommend the establishment of a Heritage Tree programs;
 - v. Recommend programs for voluntary tree planting and tree protection efforts; and

- vi. All of the above, including Section 2(D)(4)(a)-(c), are subject to appropriations by the Board of County Commissioners of Nassau County. Any recommendation or any designated responsibility pursuant to 2(D)(4)(a)-(c) shall have a financial impact report by the Office of Management and Budget.
5. The Amelia Island Tree Commission is represented by the office of the County Attorney.

E. Protected Trees:

1. Protected Trees are any existing, healthy tree as determined by an ISA certified arborist approved by the Board of County Commissioners having a five (5) inch Diameter at Breast Height (DBH) or greater, and not identified on the most recent Florida Exotic Pest Plant Council Invasive Plant list (Category I or II).
2. Specimen Trees: Specimen Trees are any existing healthy Quercus virginiana (Live Oak), as determined by an ISA certified arborist approved by the Board of County Commissioners, measuring forty-one (41) inches or more in diameter at breast height, or, a multi-trunk Quercus virginiana (Live Oak), as determined by an ISA certified arborist with an aggregate measurement of sixty (60) inches or more in diameter at breast height. Healthy Quercus virginiana are integral to the health of a maritime forest and by extension, the health and wellbeing of Amelia Island. In addition, the Quercus virginiana is the primary characteristic of Amelia Islands unique aesthetic quality which is critical to economic prosperity of the tourist industry. The Nassau County, Florida Specimen Tree threshold is determined to be 33% of the DBH of the most recent calendar year Florida Champion Live Oak as determined by the Florida Department of Agriculture and Consumer Services.
 - a. A healthy specimen tree, as defined in this Article and Article 32 LDC, shall not be removed.
 - b. The exemptions and waivers defined in this Article do not apply to specimen trees.
 - c. The removal of a specimen tree meeting the review criteria for specimen tree removal as defined in Section 37.02(E)(2)(e) shall require a permit be obtained from the Planning and Economic Opportunity Department. The form of the permit shall be approved by the County Manager.
 - d. Permit requests for removal of a specimen tree shall include a written report prepared, signed and notarized by an ISA certified arborist. The report, at a minimum, shall include:
 - i. Response to the review criteria for specimen tree removal, and;
 - ii. Reports, references and any other supporting documentation necessary to demonstrate the specimen tree meets the criteria for removal, and;
 - iii. A tree replacement plan meeting the minimum requirements of this Ordinance.
 - e. The permit request will be considered by the Amelia Island Tree Committee at a public hearing. The Amelia Island Tree Committee shall consider the following in their review of the request to remove a specimen. Criteria for specimen tree removal:
 - i. The tree is dead or has fallen, as determined by an ISA certified arborist, or;
 - ii. The health and/or structure is sufficiently compromised and the tree is deemed hazardous with high likelihood of failure by an ISA certified arborist with tree risk assessment credential, or;
 - iii. The applicant/property owner has demonstrated that no design or development alternative exists that can be implemented that would allow the specimen tree(s) to be preserved. This would include use of custom architecture (building plans),

- decrease in building foot-print size, reduction in other impervious surfaces, alternative geometric arrangement, different use of the property, lesser intense use of the property, relocation or redesign of supporting infrastructure and utilities, and other similar design and development alternatives, or;
- iv. The application of this Ordinance will remove all economically viable use of the property under review.
- v. Financial implications on the developer, applicant and/or property owner shall not be a determining factor in the issuance of a waiver.
- f. The tree replacement standards associated with the removal of a specimen tree is in addition to all other tree replacement, tree planting and landscaping requirements defined in the Land Development Code.
- g. In addition to any other landscape requirement defined in Section 37.05 LDC or tree replacement requirements defined in this Article, the removal of a specimen tree, based on the above review criteria, shall be mitigated by planting one new three(3) inch caliper Quercus virginiana (Live Oak) on-site.
- h. Nassau County reserves the right to have a third-party arborist review any submitted permit and/or back-up data and make site visits as deemed necessary by the third-party arborist. The cost of the third-party review will be passed to the applicant.
- i. Board of County Commissioners of Nassau County may set specimen tree removal permit fees by separate resolution.
- j. Appeals and Waivers are set forth in Sections P and Q of this Article.

F. Tree Removal:

Tree removal permits, processed through the Nassau County Planning and Economic Opportunity Department, are required for the removal of any protected tree, except as outlined in (F)(1)(a) below. The Board of County Commissioners of Nassau County may adopt tree removal permit fees by separate resolution. The removal of a tree by any person or entity who fails to meet the standards/procedures in this section will be subject to the penalty and enforcement provisions defined in this Article.

1. Trees Exempt from Protection: Permitting and/or replacement exemptions are outlined below. In the event the removal of a tree(s) in accordance with this section causes the property to fall beneath the minimum required number of trees per Section 37.05 and/or 37.06 LDC additional trees shall be planted in accordance with the minimum tree planting standards defined in the referenced sections of the Land Development Code. Nassau County shall require a tree replacement plan be created at the owner's expense.

- a. Exempt Classification 1: The following categories are exempt from permit, permit fee and replacement requirements:
 - i. Trees and landscaping specifically grown as landscape material for resale by duly approved and licensed plant nurseries and botanical gardens.
 - ii. Damaged or hazardous trees during and for a one (1) month period following a declared disaster weather state of emergency. Declared disaster weather state of emergency shall include all State, Federal and Local declarations that include Amelia Island.
 - iii. Minor maintenance activities such as removal of sucker growth, water sprouts, and overhanging branches on mature trees. All work shall be

performed in compliance with the best practices as provided by the International Society of Arboriculture (ISA). This provision does not apply to action undertaken by Nassau County Public Works Department for work in a public right-of-way related to public health, safety matters as stated in 37.02(F)(1)(a) LDC.

- iv. Trimming or removal of trees or limbs by Nassau County or county contractors located within a public right of way that has been deemed to represent a clear and immediate threat to the health and wellbeing of the general public as determined by the County Engineer .
- v. The removal of underbrush and removal of trees which are less than five (5) inches Diameter at Breast Height (DBH). Removal of underbrush within a Tree Protection Zone shall be consistent with the methodologies defined in this Article.
- vi. Major and minor maintenance of trees located adjacent to utility lines when performed by the utility provider.
- vii. Fallen trees.

b. Exempt Classification 2: The following require a tree removal permit and documentation in the form of a notarized letter by an ISA certified arborist at the property owner's expense as part of the permit application, but replacement plans and replacement and tree removal permit fees shall be waived for this category:

- i. Protected trees damaged by disease, fire, windstorm, lightning, insect infestation or other acts of nature, which pose an imminent danger to life, property or other protected trees.
- ii. Removal of trees (thinning) within a forested area in order to reduce overcrowding and competition and to promote the health, growth, and resistance to stress may be permitted.
- iii. Removal of trees by Nassau County within Nassau County rights of way except as exempted in Section 37.02(F)(1)(a)(iv) LDC.
- iv. A tree is removed for emergency purposes outside the provision found in Section 37.02(F)(1)(a)(ii) LDC wherein the tree poses an imminent threat to the health, safety and welfare of persons or public or private property.

2. Protected Trees Removed as Part of New Development:

The term *Construction Zone*, as used in this Article and found in Article 32 LDC, shall have the following meaning: The impervious, semi-impervious area of development, related infrastructure, utilities, stormwater management facilities and the lands within six (6) feet thereof.

The term *Limits of Disturbance*, as used in this Article and found in Article 32 LDC shall have the following meaning: A boundary denoting the maximum extent of any development activity. Development activity includes, but is not limited to, storage of material or equipment, access roads, haul roads, excavation, grading, deposit of fill material or aggregate, site work, erection of a structure, placement of construction trailers, placement of dumpsters, installation of utilities, operation of heavy equipment, or any other development related activity. Areas outside the *Limits of Disturbance* are not to be impacted by development activity.

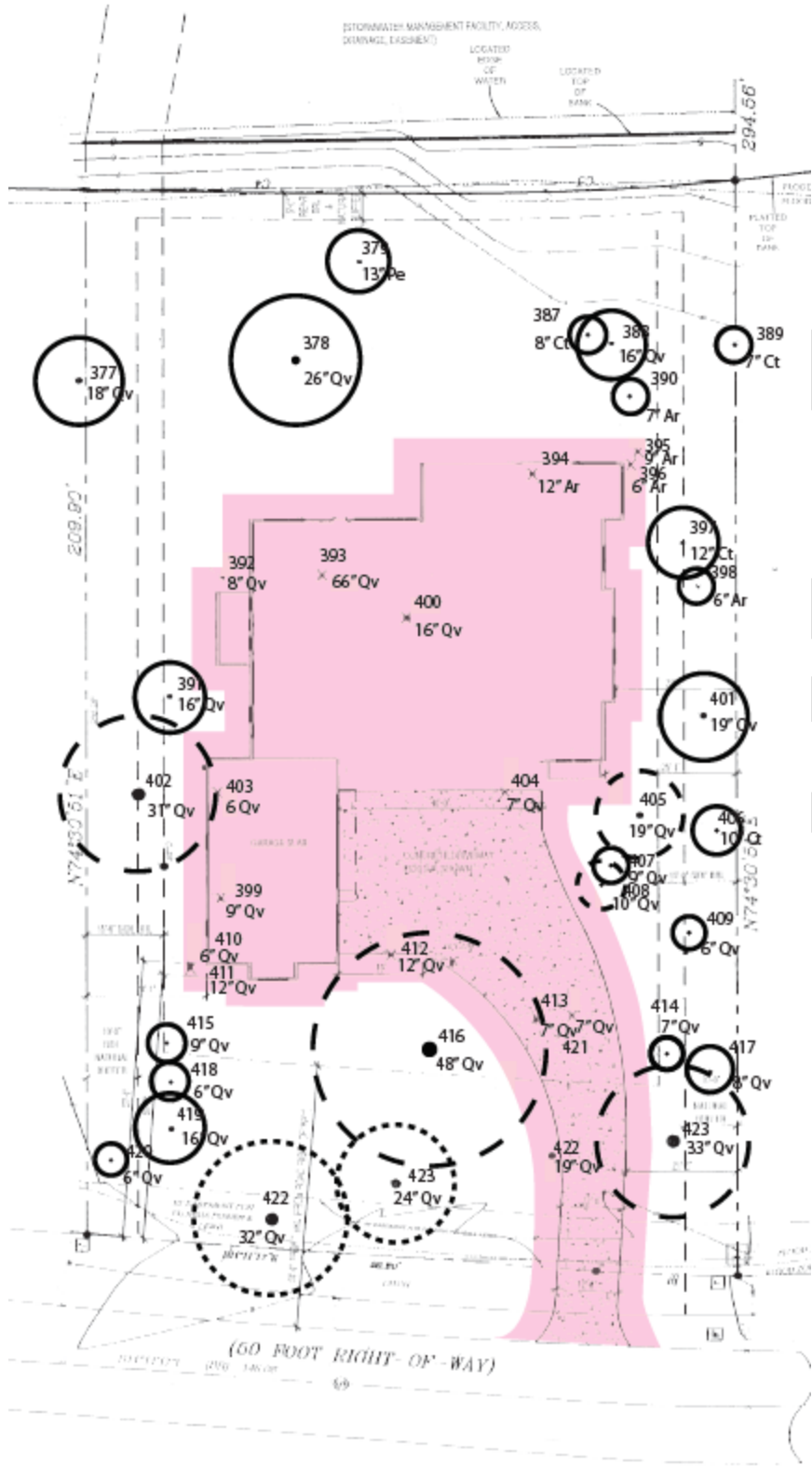
The term *New Development*, as used in this Article and found in Article 32, shall have the following meaning: Any new construction or site work whether residential, non-residential or mixed-use, any modification, expansion, redevelopment or alteration to an existing structure, alteration to any site including borrow pit construction, site grading, driveways or other similar activity, any new or expanded accessory use or structure – shed, pool, parking area, means of ingress/egress, drainage facility, pond, etc., and/or any other aspect of site or structural development or modification that may adversely impact existing trees.

As part of new development, a protected tree may be removed subject to the following:

<u>Type of Development:</u>	<u>Removal requirements:</u>
<u>Individual one- and two-family residential lots/building sites</u>	<p><u>Seventy-five percent (75%) of the total DBH of the protected trees located within the Construction Zone shall be exempt from replacement. Replacement of twenty percent (25%) of the total DBH of the protected trees located within the Construction Zone shall be required. It is the intent of this section that no protected trees located outside the Construction Zone are to be removed. No exemption for replacement inches shall be given for the removal of protected trees located outside Construction Zone. See example In Figure 37.1.</u></p> <p><u>Specimen Trees: Notwithstanding the above, in no case shall a specimen tree be removed. See Section 37.02(E)(2) of this Article.</u></p>
<u>New residential subdivisions</u>	<p><u>Seventy-five percent (75%) of the total DBH of protected trees located within the Construction Zone of proposed new rights-of-ways/streets/alleys, club houses or amenity centers or, within any active recreation areas, utility areas, golf courses, storm water management facilities or other similar components of development outside individual lots shall be exempt from replacement. Replacement of twenty-five percent (25%) of the total DBH of protected trees located within the boundary of any of the above referenced improvements shall be required. It is the intent of this section that no protected trees located outside the boundary of any of the above referenced improvements are to be removed. No exemption for replacement inches shall be given for the removal of protected trees located outside of the above referenced improvements, in commonly held open space, vegetative natural buffers, uncomplimentary use buffers, upland buffers (wetland buffers), or passive recreation areas. Individual lots will be reviewed independently at the time a development permit is requested for the individual Lot.</u></p> <p><u>Specimen Trees: Notwithstanding the above, in no case shall a specimen tree be removed. See Section 37.02(E)(2) of this Article.</u></p>
<u>Multi-family residential, Non-Residential and Mixed-Use</u>	<p><u>Seventy-five percent (75%) of the total DBH of the protected trees located within the Construction Zone, storm water management areas, and utility area shall be exempt from replacement. Replacement of twenty-five percent (25%) of the total DBH of protected trees located within the</u></p>

	<p><u>Construction Zone, storm water management areas and utility areas shall be required. It is the intent of this section that no protected trees located outside the Construction Zone, storm water management areas or utility areas are to be removed. No exemption for replacement inches shall be given for the removal of protected trees located outside of the above referenced improvements, in commonly held open space, vegetative natural buffers, upland buffers (wetland buffers), uncomplimentary use buffers, or passive recreation areas.</u></p> <p><u>Specimen Trees: Notwithstanding the above, in no case shall a specimen tree be removed. See Section 37.02(E)(2) of this Article.</u></p>
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- Construction Zone
- Tree Protection Zones
- 594" - Total protected inches pre-construction
- 177" - Total inches (DBH) within the Construction Zone
- 417" - Total inches (DBH) outside the Construction Zone
- 45" - Replacement inches required ($177 \times .25 = 44.25$) for trees removed within Construction Zone
- 417" - Potential preservation inches (DBH) subject to Mitigation Strategy approval
- Mitigation Strategy required due to construction zone encroachment (5 trees = 140")
- Mitigation Strategy required due to FPU easement encroachment (2 trees = 56")
- 0" - Total inches in Replacement Trees if Mitigation Strategy approved

Figure 37-1

3. No protected tree located within a required perimeter landscape area, as defined in Section 37.05(D) LDC, adjacent to a public or private right-of-way or street shall be removed except to provide site access where no other viable option exists. Any tree meeting this requirement shall be identified as part of the tree protection and replacement plan and be assessed for health by an ISA certified arborist.
4. It is encouraged that as part of the development program the naturally occurring groundcover and understory be maintained.
5. Credit shall not be given for the preservation of protected trees located in jurisdictional wetlands or required upland buffers/vegetative natural buffers.
6. When, based on the determination of an ISA certified arborist, a parcel of land cannot support the number of trees required to be planted as part of the replacement standards as defined herein, a property owner, at their expense, may plant the requisite trees on other lands on Amelia Island subject to approval by the Amelia Island Tree Commission.

Based on the unique ecological and environmental factors of Amelia Island, a barrier Island on the east coast of Florida and part of the Georgia Embayment, it is the intent of Nassau County that Amelia Island is viewed as a single planning area as it relates to tree protection and replacement. Amelia Island contains a maritime forest - one of the rarest coastal biological communities. The Amelia Island maritime forest and other forested areas provide communal benefits that are integral to the health, safety and general wellbeing of the entire Island and the inhabitants thereon. Those communal benefits that preserve the health, safety and general wellbeing of the inhabitants of Amelia Island include, among others, storm protection, stormwater storage and treatment, soil stabilization and strengthening, and serve to counter heat island effect. The replenishment of the Amelia Island maritime forest and other forested areas on Amelia Island are integral to health, safety and wellbeing of all Amelia Island residents. As such, the replacement plantings may take place anywhere on Amelia Island.

The tree donator and receiving entity shall be jointly responsible for the tree(s) survival. If any replacement tree does not survive it shall be the joint responsibility of the donator and receiving entity to replace the tree(s). At the discretion of the Amelia Island Tree Commission, the parties involved in the action may be required to enter into a written agreement recorded with the Clerk of the Circuit Court of Nassau County memorializing each party's commitments.

7. It is encouraged, and in some cases may be necessary, to utilize low impact development principles, or other techniques such as stem-wall construction, tree wells and others, to preserve protected trees.

G. Required Documentation for Tree Removal Related to New Development:

1. New Development Not Requiring Development Review Committee (DRC) Approval:
 - a. When considering a request to facilitate New Development that does not require review by the Development Review Committee (DRC), the tree protection and replacement plan shall be submitted at the time the request is made. As an example, the addition of a pool to an existing single-family residential lot does not require approval by the DRC; however, the improvement meets the definition of New Development per this Article and thus

requires a tree protection and replacement plan and is subject to the 75/25 replacement rule as defined in Section 37.02(F)(2) of this Article. The Department of Planning and Economic Opportunity will review said protection and replacement plan and either approve, approve with conditions or deny for-cause the submitted plan based on the standards defined in Sections 37.02(G), (H), (I), (J), (K) & (N) & (O) LDC. The Planning and Economic Opportunity Department will provide a written assessment of the plan notifying the applicant of the review findings if approved with conditions or is denied. No development permit (this includes building permits, site work permits, borrow pit permits, right-of-way permit, driveway permits, or any similar permit) will be issued until the tree protection and replacement plan is approved by Nassau County. A review fee will be set by separate Resolution of the Board of County Commissioners and amended from time-to-time as necessary.

2. New Development Requiring DRC Approval:

- a. When reviewing a project requiring a Preliminary Binding Site Plan, Site Plan, or Subdivision Plan reviewed by the Development Review Committee, the tree protection and replacement plan shall be required as part of the review and be included within Preliminary Binding Site Plan, Site Plan, or Subdivision Plan documents.
- b. When reviewing a project requiring a Site Engineering Plan (SEP) reviewed by the Development Review Committee, but not any of the items listed in 'a' above, the tree protection and replacement plan shall be required as part of the review included within Site Engineering Plan documents.
- c. When reviewing a project requiring a Preliminary Development Plan (PDP) (new or modified) the tree protection and replacement plan shall be required as part of the review included within Preliminary Development Plan documents.
- d. When reviewing a project requiring a Final Development Plan (FDP) that has a previously approved Preliminary Development Plan the tree protection and replacement plan shall be required as part of the review included within Final Development Plan documents.
- e. All revision sheets must be dated and revision history noted in the title block.

3. The following information is required for all tree protection and replacement plans:

- a. A completed tree inventory. This includes a graphical representation and worksheet in the format provided by Nassau County.
- b. A tree survey/inventory. When the request involves removal of three (3) or fewer trees, the inventory/survey does not need to be certified by an ISA certified arborist, but must contain all requisite information defined in this Article. When the application is requesting the removal of four (4) or more trees, the inventory/survey shall be certified by an ISA certified arborist.
- c. In all cases, the tree survey/inventory shall be drawn to scale and include the following:
 - i. Location of all trees, identifying their species using botanic species nomenclature (i.e. Quercus virginiana = Qv), size at DBH, approximate drip-line, tree protection zones and related barricades. The placement of tree barricades shall be in accordance with Section 37.02(N)(5) LDC and shall be field adjusted and verified for compliance.
 - ii. Illustration and text outlining tree protection methods as per Sec. 37.02(N).
 - iii. All protected trees, including specimen trees, within the project boundary, abutting rights-of-way and easements shall be noted.

- iv. Location, including footprint, of all proposed and existing structures and other existing and planned improvements including utilities and storm water management facilities.
 - v. All existing and proposed impervious and semi-impervious surfaces.
 - vi. Construction Zone Boundary.
 - vii. The Limits of Disturbance.
 - viii. Property boundaries and any abutting streets identified by name.
 - ix. Location of all points of ingress and egress, existing and planned utilities including private well and onsite sewage treatment and disposal systems (septic tank and drain field). If overhead utilities are located adjacent to the subject property, the location of said utilities must be shown.
 - x. Indication of trees to be retained, trees to be removed, and diseased trees. Include this information on a chart identifying all existing protected trees by #, DBH size, health, retention status, whether the tree is inside or outside the Construction Zone or Limits of Disturbance, comments and any other information deemed necessary to calculate preservation inches and mitigation inches required.
 - xi. Calculation of total DBH of trees inside the Construction Zone, 20% retention DBH, those within the Limits of Disturbance (if appropriate) and Mitigation Inches required.
 - xii. Proposed grade changes.
 - xiii. Jurisdictional wetlands and related vegetative natural buffers (upland buffers).
 - xiv. Supporting documentation from ISA certified arborist related to encroachments into the tree protection zone detailing mitigation strategies to address development impacts to protected trees as referenced in Section 37.02(N)(5) LDC.
 - xv. Any other information deemed necessary by the Director of Planning and Economic Opportunity to adequately review the request.
 - xvi. No survey or tree inventory shall be more than two (2) years old.
4. Nassau County reserves the right to have a third-party arborist review any request for tree removal. The cost of the review shall be covered by the applicant.
 5. Unless exempted in subsections 37.02(F)(1)(a) or (b) of this Article, a tree replacement plan shall be submitted and certified by an ISA certified arborist or licensed landscape architect showing the location and specification of all replacement trees pursuant to and consistent with the tree replacement and relocation standards in Section 37.02(I) LDC.
 6. All tree protection and replacement plans requiring certification by an ISA certified arborist and all restoration plans shall include the following notarized signature block.

I, _____, am a certified arborist through the International Society of Arboriculture and my certification number is _____. I hereby attest that I have prepared this tree protection and replacement plan and/or restoration plan. This includes not only the evaluation of individual trees but also review of the complete construction plan set and the techniques that will be utilized to mitigate impacts to protected trees. Further, I attest that best practices, as supported by the International Society of Arboriculture, are being implemented to avoid and mitigate impacts to protected trees.

Print Name: _____

Signature: _____ Date: _____

7. Tree Preservation Plan or Restoration Plan shall be re-signed by the arborist with any Tree Preservation Plan or Restoration Plan resubmission.

H. Supplemental Parking Requirements For the Unincorporated Areas of Amelia Island:

Supplemental parking requirements for Amelia Island were adopted to promote tree preservation. See Section 31.14 of the Land Development Code of Nassau County: Supplemental Parking Requirements for the Unincorporated Areas of Amelia Island.

I. Replacement Trees Requirements:

1. When authorization has been granted to remove protected trees, replacement trees shall be planted as applicable. The combined caliper inches of replacement trees shall at a minimum equal the combined DBH of trees authorized for removal subject to any applicable partial exemption defined in Section 37.02(F)(2) LDC and tree preservation credit as defined in Section 37.02(K) LDC.
2. For specimen trees, see Section 37.02(E) of this Article. The approved removal of specimen tree shall be mitigated with the planting of one three (3) caliper inch Quercus virginiana (Live Oak). Tree preservation credits nor landscape requirements as defined in Section 37.05 LDC may be utilized to off-set this requirement. This requirement is in addition to all other landscaping, tree planting and replacement requirements. Preservation credits are not applicable for removal of Specimen Trees to ensure that for each specimen Quercus virginiana which is removed one Quercus virginiana tree is planted.
3. Replacement trees shall be a canopy tree and meet the standards set forth in Section 37.05(B) LDC, and shall measure three (3) caliper inches or more at the time of planting, be balled and/or burlapped or container-grown. In order to prevent a monoculture, replacement trees shall not include more than forty (40) percent of any one genus or twenty (20) percent of any one species.
4. Replacement trees shall be maintained and warranted to survive for a period of one (1) year from installation. Trees which do not survive in good condition as determined by an ISA certified arborist for one (1) year must be replaced with new trees meeting the size requirements defined herein at the property owner's expense. Replacement trees shall comply with the same maintenance and replacement warranty as the original replacement tree(s) and the warranty period will restart at the date of planting.
5. All replacement trees shall be irrigated.

J. Amelia Island Tree Fund/Fee In-lieu:

The Board of County Commissioners of Nassau County shall create a restricted unincorporated Amelia Island Tree Fund. The fee schedule will be set by the Nassau County Board of County Commissioners. The fee amount will be based on the following:

1. The Nassau County Department of Planning and Economic Opportunity (PEO) will survey at least three retail nurseries located in Northeast Florida, with at least one nursery being located in Nassau County, to obtain the cost to plant a three (3) caliper inch Quercus virginiana (Live Oak). The three quotes will be averaged to arrive at total cost. The total cost will be divided by three to derive the cost per inch replacement fee.
2. The following criteria shall be provided to the nurseries for arriving at a quote:
 - a. Transport and installation: Shall include transport and installation. For calculating travel distance for delivery, it will be assumed the tree will be planted at the

- intersection of Fletcher Avenue and First Coast Highway - a centralized location on Amelia Island.
- b. Warranty: The Quote shall include a twelve (12) month warranty.
 - c. Irrigation: The cost to provide a tree watering bag and fill/maintain said gator bag as necessary for a period of not less than six months.
 - d. Material Grade: Grade #1 or better according to the current edition of "Grades and Standards for Nursery plants" published by the Florida Department of Agriculture and Consumer Services, Division of Plant Industry.
3. The fee will be adjusted from time-to-time as deemed necessary by Nassau County.
 4. The expenditure of monies collected by the Amelia Tree Fund are limited for the following purposes within the unincorporated areas of Amelia Island and shall be expended by the Board of County Commissioners based on recommendation from the Amelia Island Tree Commission:
 - a. Planting of new trees in the unincorporated areas of Amelia Island either on public lands or on private property in accordance with the Amelia Tree Planting Program in Section 37.02(M).
 - b. Perform studies related to urban forestry, canopy protection, and assessments of natural areas.
 - c. Education and outreach initiatives primarily focused on preserving the native canopy, impacts of tree loss, value of natural, regenerating areas.
 - d. Grant application and match funds.
 5. An applicant shall be permitted to pay a fee to the unincorporated Amelia Island Tree Fund for up to fifty (50) percent of the required replacement inches (caliper).
 6. Payment into the Amelia Tree Fund shall only be acceptable for tree replacement requirements and shall not be utilized to off-set any minimum landscaping requirements defined in Article 37.05 LDC.
 7. Penalty and Fine Money Collected as Part of Enforcement Action: Any financial penalties or fines collected by Nassau County related to violation of this Article shall be placed in the unincorporated Amelia Tree Fund for use as defined in subsection (J)(4) above.

K. Preservation Credits:

1. New Development is encouraged to be designed to provide required open space in such a manner that it maximizes the preservation of protected trees and swaths of native landscapes.
2. All new development as defined in this section is eligible to receive tree preservation credits.
3. On-site retention of protected trees shall receive benefit of tree preservation credits to reduce the overall tree replacement requirements as follows:
 - Trees equaling 12" – 24" (DBH) shall receive a 1.15% credit
 - Trees equaling 24.1" – 38" (DBH) shall receive a 1.25% credit
 - Trees equaling 38.1" or greater (DBH) shall receive a 1.50% credit
 - a. In order to qualify for on-site tree preservation credits, each tree proposed for retention must be evaluated by an ISA certified arborist to ensure that the tree is healthy and proper mitigation techniques will be implemented to ensure the long-term viability of the tree(s) in the post development environment.
 - b. These credits shall only be applied towards tree replacement requirements created by the removal of protected trees as set forth in Section 37.02(F) LDC. These credits may be transferred only on unified multiple lot developments pursuant to Sections 37.02(F)(G).
 - c. Preservation credits for the total DBH of protected trees retained on the site will be applied during the review of the tree protection and replacement plan.

- d. Tree credits cannot be applied to minimum landscaping requirements defined in Section 37.05 of the Nassau County Land Development Code.
4. Existing Trees located within easements may be eligible to receive preservation credits provided the improvements within the easement do not adversely impact the protected trees. In addition, the easement holder shall provide written acknowledgement of the protected status of the trees and affirm activities within the easement will not adversely impact long-term survivability. For example, a tree located in an electrical utility easement that contains or will contain overhead electrical lines will not be eligible to receive credits. In the alternative, where a tree is located in an electrical easement where the electrical lines will be installed via directional bore (installed underground) under the consultation of an ISA certified arborist then preservation credits are appropriate if correspondence is received from the easement holder acknowledging the trees' protected status and affirms that activity in the easement will not adversely impact the trees survivability.

L. Tree Bank Exchange Area:

Within the boundary of a development under a unified development program, a Tree Bank Exchange Area (TBEA) may be established in order to meet minimum replacement requirements related to New Development. The purpose of the bank is to prevent over planting on individual lots/tracts, to establish new shade trees in proximity to the removal location, and to provide flexibility and incentive for open space preservation. A Tree Bank Exchange Area (TBEA) is an area or several areas of land located internal to a development under unified development program which are dedicated as open space for new tree plantings. The use of a Tree Bank Exchange Area (TBEA) allows for trees to be planted within the identified area to satisfy required replacement inches necessitated by the removal of trees for New Development. The TBEA cannot be used to fulfill minimum landscape requirements for an individual site as defined in Section 37.05 and 37.06 LDC. A Tree Bank Exchange Area may be established at the same time as consideration of a preliminary binding site plan/subdivision plan, site engineering plan, preliminary development plan or by the Development Review Committee thereafter.

A Tree Bank Exchange Area must meet the following minimum standards and limitations:

- a. Be designated on the Site Engineering Plan and Plat or other similar means approved by the Development Review Committee;
- b. Provide a note in the adoption and dedication block on the plat defining to whom the bank is dedicated and the intended purpose, or in the alternative, provide adequate documentation to the Development Review Committee to meet the same intent;
- c. Be described in the covenants and restrictions of the community/development and define maintenance responsibility;
- d. May only serve to receive trees from lands within the same development which is subject to a unified development program;
- e. Replacement trees shall only be allowed to be transferred to the TBEA. Replacement trees cannot be transferred from an individual lot to another individual lot unless otherwise approved by the Planning and Zoning Board.

M. Amelia Island Tree Planting Program

1. The Amelia Island Tree Commission may recommend to the Board of County Commissioners of Nassau County an unincorporated Amelia Island Tree Planting Program. If approved, the program shall be evaluated and updated at a minimum every five (5) years. Any recommendation as to a tree

planting program shall have a financial impact assessment approved by the County Office of Management and Budget and County Manager and provided to the Board of County Commissioners.

2. At a minimum, the Tree Planting Program shall include, but is not limited to:

a. As a priority, strategies for planting trees on publicly-held lands on the unincorporated area of Amelia Island, including rights-of-ways and lands owned or controlled by Nassau County and the Nassau County School Board.

b. Strategies for working with private property owners to plant trees on the unincorporated area of Amelia Island, including the possibility of partnerships using funds from the Amelia Tree Fund.

3. Strategies for public and private planting programs must be developed in public meetings of the AITC, establish a process, and have clear criteria for site selection and the use of funds. It is not intended that this program would offset any required landscape or tree replacement obligations of private property owners due to tree removal.

N. Protection of Trees During Development Activities:

1. Protective measures are required during site development in order to assure the health and survival of protected trees. Storage of construction materials or fill dirt is expressly prohibited within the tree protection zone.

Protective measures are required to avoid:

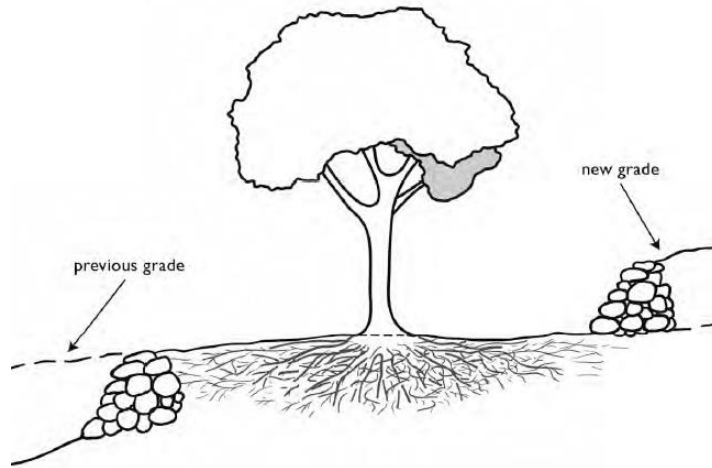
- a. Mechanical injuries to roots, trunk, and branches;
- b. Injuries by chemical poisoning;
- c. Injuries by grade changes;
- d. Injuries by excavations;
- e. Injuries by root compression; and
- f. Injuries by new impervious surfaces

2. To provide conformity between projects, avoid confusion and assist field inspectors, enforcement agents, site construction works and others, the following color coding system for tree ribbons and in the creation of tree protection and replacement plans shall be used.

- a. Blue – Protected Tree to be Removed
- b. Orange – Protected Tree to be Preserved
- c. Red – Dead or Diseased Tree with DBH of Five Inches or Greater to be Removed
- d. White – Used for Inventory Purposes Only

3. It is the intent of this article to encourage the utilization of Low Impact Development principles. Significant grade changes should be avoided to the maximum extent possible. Stem-wall construction is strongly encouraged. When grade change is unavoidable, techniques shall be used to avoid placement of fill over the tree protection zone. It is encouraged that as part of the development program the naturally occurring groundcover and understory be maintained.

GRADE CHANGE GUIDELINES



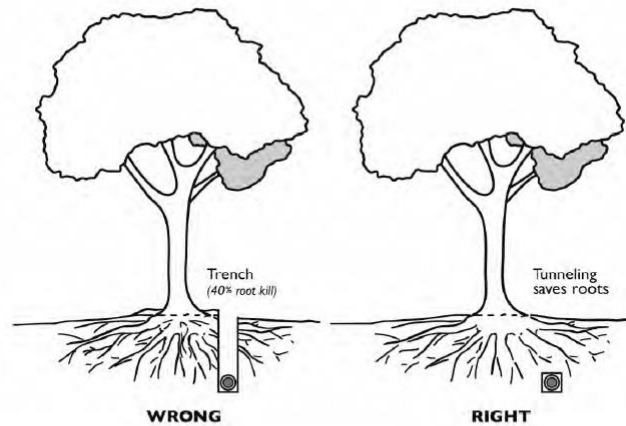
MAINTAIN EXISTING GRADE AROUND TREE

Protect tree roots by creating terraces with retaining walls. This will allow the original grade around the root zone to be maintained. Cutting or shaving roots or piling soil on top of roots to create a continuous new grade will slowly kill the tree. Look out for drainage changes that could mean a tree gets too much water or not enough.

Figure 37-2

4. The extension of utilities shall be underground and utilize directional boring (tunneling) and avoid protected trees. Utility areas shall be denoted on all tree protection plans/site plans.

TUNNELING UNDER ROOT ZONE



AVOID SEVERING ROOTS

Install utility lines *around* tree roots or tunnel *under* the root zone. Trenching *kills* all the roots outside the trench line. Posts and supporting beams can be substituted for footing and walls where proposed foundations conflict with tree roots.

Figure 37-3

5. A tree protection zone shall be established around each protected tree(s) as follows:
- a. At a minimum, the tree protection zone (TPZ) shall be defined as a circular area around a protected tree with a radius equal to six (6) times the diameter of the trunk of the protected tree at breast height. In no case shall a tree protection zone be less than seventy-two (72) inches. As an example, a protected tree with a DBH of fifty (50) inches will have a tree protection zone with a radius of three-hundred (300) inches. A protected tree with a DBH of eight (8) inches will have a tree protection zone of seventy-two (72) inches. Reference Section 37.02(N)(5)(d) LDC for deviations in TPZ encroachments.
 - b. Prior to commencement of construction, all trees shall be marked with the appropriate color ribbon as defined in Section N(2) of this Article and the tree protection zone shall be enclosed via the installation of the tree protection barricade. The tree protection barricade shall be at least three (3) feet tall. The barrier shall consist of either a wood fence with 2x4 posts placed at a maximum of eight (8) feet apart, with a 2x4 minimum top rail, or a temporary wire mesh fence supported by 2x4 posts spaced at no more than eight (8) feet, chain link or other similar barrier which limits access to the protected area. The barricade must remain in place through the duration of construction activities.
 - i. The material utilized for the barricade may be altered by the Planning and Zoning Board upon receipt of a written request of the Applicant. The decision to grant the alternative material shall be based on the following:
 - 1)Peculiar topographical or environmental characteristics of the site that are not applicable to other lands.
 - 2)The proposed alternative is superior to minimum requirements as determined by an ISA certified arborist.
 - 3)Financial impacts on the Applicant shall not be considered by the Board in making a determination.
 - c. Trenching or excavation within the tree protection zone of a tree intended for preservation must be done by hand or air spading only. Directional boring/tunneling is the preferred method when applicable.
 - d. A deviation from the minimum size requirements of the tree protection zone may be granted by the Amelia Island Tree Commission if the strict application of this rule will result in the unnecessary destruction of protected trees which can otherwise be preserved through application of best management practices. Consultation with an ISA certified arborist is required to determine proper measures to ensure protection of the tree during construction activities. The plan shall be prepared and certified by an ISA certified arborist and include sufficient detail to clearly define the process and protective measures proposed. This plan shall be submitted to Nassau County as part of the request to commence New Development. The County reserves the right to impose upon the applicant the minimum fee necessary to cover the expense of having a third party ISA certified arborist review the submittal.
 - e. If upon inspection by the Nassau County Code Enforcement Department, it is determined that a tree protection barricade has not been properly maintained or improperly located a stop work order may be issued. The stop work order may not be lifted until all barricades have been re-established in accordance with this ordinance and any resulting corrective action has been completed.
 - f. During construction it shall be the responsibility of the developer to monitor the water needs of protected trees.
 - g. At a minimum, a 12 sq.ft. sign shall be displayed in the TPZ marking the TPZ.

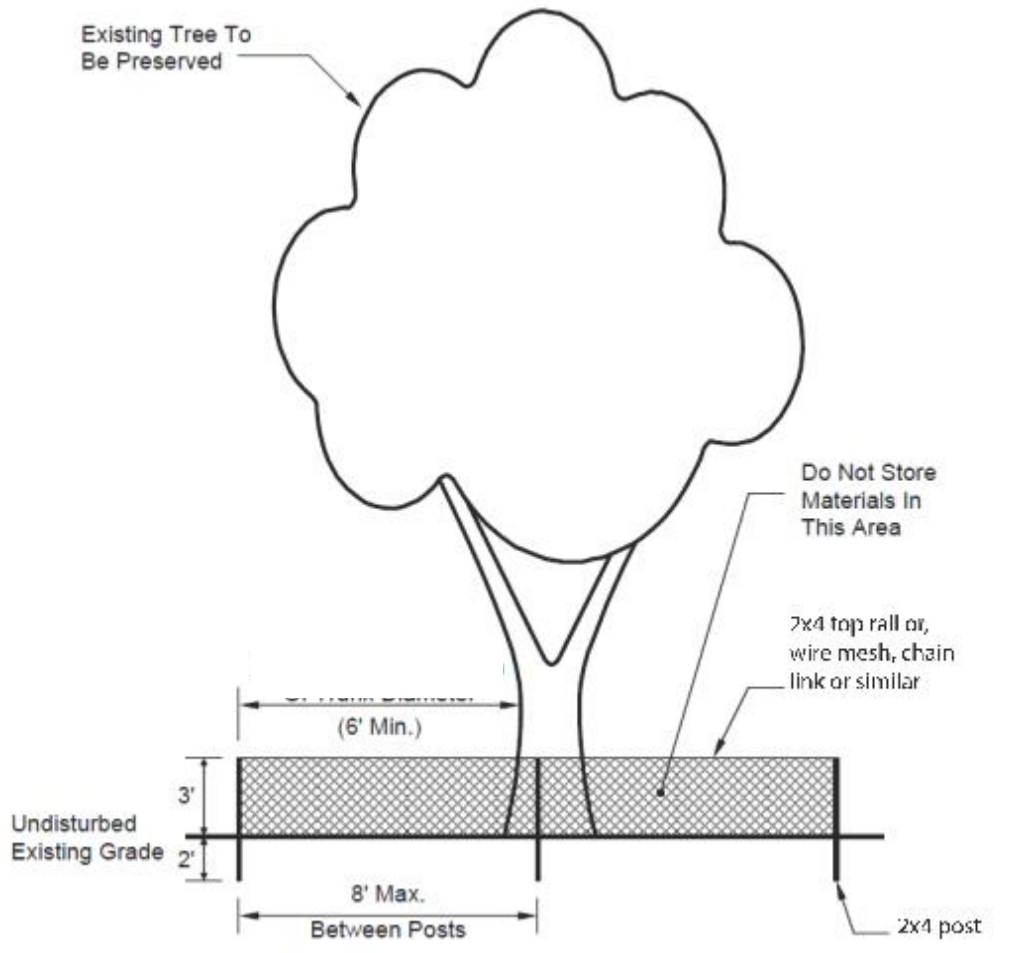


Figure 37-4

5. All development activities, except those specifically permitted by Section 37.02 (N)(6) LDC, shall be prohibited within the tree protection zone, including any construction of buildings, structures, paving surfaces, stormwater retention or detention ponds, and temporary construction activities, including all digging, storage of construction material, mechanical clearing of underbrush and/or parking of construction vehicles.
6. Permitted activities within the tree protection zone:
 - a. Excavating or trenching by utility service providers for installation of underground utilities, only when directional boring has been demonstrated to the County Engineer as not appropriate. Underground utilities shall be placed away from the base of the tree to the maximum extent possible. When trenching or excavation within the tree protection zone of a tree intended for preservation is deemed necessary by the County Engineer all trenching and excavating shall be done by hand or air spading only. Directional boring/tunneling is the appropriate method when applicable. The County Engineer shall not consider the financial implications of boring/tunneling in making a determination.
 - b. Placement of ground covers such as mulch, pine straw, pine bark, or naturally occurring groundcovers found in the same natural community, and the non-mechanical preparation of the ground surface for such covers.
 - c. Hand trimming of underbrush.

7. The root systems of protected trees shall be preserved when installing fences and walls. Postholes and trenches located close to trees shall be dug and adjusted as necessary to avoid damage to major roots. Continuous footers for masonry walls shall be ended at the point larger roots are encountered and the roots bridged.
8. No person shall attach any signs to a protected tree, nor shall any person cause any substance harmful to protected trees to come in contact with them, or prevent water or oxygen from reaching their roots by excessive cut and fill activities.

O. Abused Trees:

Abused trees shall not be counted toward fulfilling tree replacement or preservation requirements. Nassau County may require the abused trees to be replaced and are subject to penalties provided for in this Article. A tree may be considered abused if one (1) or more the following actions have taken place:

1. Damage that threatens the long-term survivability, as determined by an ISA certified arborist, has been inflicted upon any part of a tree, including the root system by machinery, storage of materials, soil compaction, excavation, vehicle accidents, chemical application, or change to the natural grade
2. Damage inflicted to or cutting upon a tree which causes infection or pest infestation
3. Pruning any tree to permanently reduce the function of the tree or cause it to go into shock
4. Hat-racking/Topping
5. Pruning more than 30% of the canopy of a shade tree
6. Removal of bark which is detrimental to the tree
7. Tears and splitting of limb ends or peeling and stripping of bark
8. Use of climbing spikes, or cutting into the tree for the purposes of climbing on any species of tree for any purpose other than total removal, except as the same may be required to comply with federal, state or local laws and regulations, including, but not limited to, the Occupational Safety and Health Act
9. Girdling a tree with the use of wires (e.g., use of weed eater, mower damage, or improper cabling around branches)

P. Appeals.

1. It is the intent of this article that all questions of interpretation and enforcement shall be first presented to the County in accordance with Section 3.03 and Article 4 of the Nassau County Land Development Code.
2. An application for appeal shall be presented in accordance with Section 3.04(B)(7) of the Nassau County Land Development Code to the Amelia Tree Commission on matters of interpretation and to the Code Enforcement Board on matters of enforcement.

Q. Waivers

1. Waivers ~~to~~ shall be heard by the Amelia Island Tree Commission:
 - a. The Amelia Island Tree Commission may consider unique development scenarios that result in the preservation of significant natural areas and demonstrates tree protection in a holistic manner – preservation of an intact natural community. This provision is not intended to waive the preservation or replacement requirements defined in this Article but rather address characteristics of development such as reducing building setbacks, reducing the building footprint by increasing building height, reducing required parking, use of Low Impact Development principles as recommended by the County Engineer.

- b. A request for consideration of a waiver from the Amelia Island Tree Commission shall be submitted in writing to the Planning and Economic Opportunity Department. The waiver request shall include the following:
 - i. Narrative describing the request. The narrative shall describe the unique development scenario and provide specific detail as to how the waiver results in a superior development proposal as it relates to a holistic view of tree protection that could not otherwise be achieved without the waiver.
 - ii. Site plan of sufficient detail to adequately review and make a professional recommendation to the Amelia Island Tree Commission. At a minimum, the site plan shall meet the standards for a Preliminary Binding Site Plan as defined in Section 5.07 of the Nassau County Land Development Code. Additional data may be requested by County staff or County retained arborist.
 - iii. Tree preservation and replacement plan meeting the minimum requirements defined in this Article.
- c. The criteria the Amelia Island Tree Commission shall consider to approve, approve with conditions or deny the request for waiver are as follows:
 - i. The written recommendation of the Development Review Committee including any conditions of approval or reasons for denial.
 - 1) The criteria the Development Review Committee will use in making a recommendation is as follows:
 - a) The proposal is not in contradiction with other established regulations and standards such as the Florida Building Code, National Fire Protection Association's Codes and Standards and Manual on Uniform Traffic Control Devices.
 - b) The proposal does not pose a public health and/or safety concern.
 - c) Consider any finding or report made by the County retained arborist if utilized by the County to review the proposal.
 - d) The financial implications on the applicant shall not be considered.
 - ii. The County retained arborist' report and comments.
 - iii. The applicant has demonstrated to the Amelia Island Tree Commission that the requested waiver will allow for a design that enhances the tree protection and replacement efforts and addresses tree preservation in a holistic manner, i.e. protection of ground cover and understory and preserving swaths of natural area capable of regenerating naturally.
 - iv. The development cannot otherwise be realized through the strict application of the development regulations of Nassau County and, the use of Low Impact Development principles or other techniques result in preservation of larger areas of natural landscapes and tree protection.
 - v. Financial implications on the developer, applicant and/or property owner shall not be a determining factor in the issuance of a waiver.
 - d. For criteria for Specimen Tree removal see, Section 37.02(E)(2)(e) LDC.
- 2. The Amelia Island Tree Commission shall, after receipt of a request for waiver and review by PEO staff and arborist if approved, shall:
 - a. Schedule a hearing within thirty (30) days of receipt of a complete application.
 - b. The hearing shall be noticed on the County website and advertised in a newspaper qualifying pursuant to state statute. The advertisement shall run at least seven (7)

calendar days prior to the hearing. The applicant shall be responsible for any costs and for providing proof of publication.

- c. The hearing shall be a Quasi-Judicial hearing and any decision shall be based on competent substantial evidence.
 - d. The Amelia Island Tree Commission shall issue a final written decision at the conclusion of the hearing.
 - e. The County Quasi-Judicial hearing procedures shall be applicable.
 - f. Any applicant may appeal a decision of the Amelia Island Tree Commission to the Circuit Court in Nassau County, Florida. Said appeal to be filed no later than thirty (30) days after the date of the written decision.
3. Administrative Waiver
- a. The PEO Director, or designee, may issue an administrative waiver for reducing building setbacks, increasing building height by 20%, and alter minimum perimeter landscape buffer requirements, provided the intent of the buffer is maintained, and the alteration results in the preservation of additional protected trees, at minimum to provide tree protection in accordance with Section Q(1)(c)(ii).
 - b. A request for consideration of a waiver from the PEO Director, or designee, shall be submitted in writing to the Planning and Economic Opportunity Department. The waiver request shall include the following:
 - i. Narrative describing the request. The narrative shall describe the unique development scenario and provide specific detail as to how the waiver results in a superior development proposal as it relates to a holistic view of tree protection that could not otherwise be achieved without the waiver.
 - ii. Site plan of sufficient detail to adequately review and make a professional determination. At a minimum, the site plan shall meet the standards for a Preliminary Binding Site Plan as defined in Section 5.07 of the Nassau County Land Development Code. Additional data may be requested by County staff or County commissioned third-party reviewers.
 - iii. Tree preservation and replacement plan meeting the minimum requirements defined in this Article.
 - c. The criteria by which the PEO Director, or designee, will base their decision to approve, approve with conditions or deny the request for waiver are as follows:
 - i. The PEO Director, or designee, may consult, with the Development Review Committee and seek recommendations including any conditions of approval or reasons for denial. The DRC will use the following criteria in making a recommendation:
 - 1) The proposal is not in contradiction other established regulations and standards such as the Florida Building Code, National Fire Protection Association's Codes and Standards and Manual on Uniform Traffic Control Devices.
 - 2) The proposal does not pose a public health and/or safety concern.
 - 3) Consider any finding or report made by the County retained arborist if utilized by the County to review the proposal.
 - 4) The financial implications on the applicant shall not be considered.
 - ii. The applicant has demonstrated to the PEO Director, or designee, that the requested waiver will allow for a design that enhances the tree protection and replacement efforts and addresses tree preservation in a holistic manner, i.e.

- protection of ground cover and understory, preserving swaths of natural area capable of regenerating naturally.
- iii. The development program cannot otherwise be realized through the strict application of the development regulations and, the use of Low Impact Development Principals or other techniques result in greater preservation of natural areas and tree protection.
 - iv. Financial implications on the developer/home owner shall not be a determining factor in the issuance of a waiver.
4. Nassau County reserves the right to request a third-party review by a state certified arborist of any data submitted as part of a request for waiver. The cost of the third-party review will be paid by the applicant.
 5. A fee for the processing of a waiver request shall be set by separate Resolution of the Board of County Commissioners and amended from time to time as appropriate.
- R. Review fee.** By separate resolution of the Board of County Commissioners a fee shall be established for the review of tree protection and replacement plans for New Development and restoration plans in the unincorporated areas of Amelia Island. For after-the-fact review of tree protection and replacement and/or restoration plans the review fee shall be four times the amount.
- S. Administration and Enforcement.**
1. The Department of Planning and Economic Opportunity shall administer the provisions of these regulations. The Code Enforcement Department shall enforce the provisions of these regulations. A Code Enforcement Officer shall have the authority, pursuant to this Ordinance, to provide Notice of Violation(s) and citations for violations to the property owner and/or contractor, site work company, individual or engineer via hand-delivery and notation of date and time of delivery and/or a certified letter from the Code Enforcement Department. The Code Enforcement Board procedures are set forth in Article III, Ordinance 99-02, as amended, and the provisions of F.S. Ch. 162. Suspended permits may be reinstated after tree protection measures are brought into conformance with an approved tree protection and replacement plan and/or restoration plan and any fines and code enforcement penalties (if applicable) are addressed.
 2. When, after an investigation by the Code Enforcement Department of Nassau County and upon determination of the Code Enforcement Officer, a stop work order may be issued. A stop work order on a specific parcel may be issued by the Building Official or designee, Code Enforcement Officer, County Engineer or designee, or County Manager. As determined necessary by the County Manager or designee, a stop work order may be applied to site work, infrastructure installation, vertical construction or any other development/building activity. The stop work order may not be lifted until all fines/review fees (as applicable) have been paid, a restoration plan approved (as applicable) and any required bond (as applicable) has been secured and approved to form by the County Attorney.
 3. The property owner and contractor, or person(s) who performed the tree removal, may be held jointly liable.
- T. Penalties.** Penalties shall be in accordance with the requirements set forth in Chapter 1, Article 3 of the County Code of Laws and Ordinances and the Specific Penalties for Violation of Tree Protection measures defined in Section 37.02(U) of the Land Development Code. Each violation of this Article is deemed a separate and distinct offense.
- U. Specific Penalties for Violation of Tree Protection Measures:**

1. If the Nassau County Code Enforcement Board has determined the removal or abuse, as defined in this Article, of a protected tree(s) has taken place in violation of this Ordinance a restoration plan shall be prepared by an ISA certified arborist and submitted to the Code Enforcement Board for review within thirty (30) days of the Nassau County Code Enforcement Board finding that a violation has occurred. The consideration of the plan will be pursuant to a public hearing before the Code Enforcement Board. The alleged violation, upon receipt of a Code Enforcement citation, prior to a finding of a violation by the Code Enforcement Board, may submit a restoration (mitigation plan) to the Planning and Economic Development Department for review based on the requirements set forth herein. At a minimum, the owner and/or developer shall replace, inch-for-inch one (1) caliper inch for every inch of DBH removed, any and all trees that are removed without authorization. The restoration plan shall include all the requirements of a tree protection and replacement plan, including an irrigation plan and maintenance plan, as defined in Section (I) of this Article.
2. The Planning and Economic Development Department shall review the plan, with the assistance of a state certified arborist and provide comments to the Code Enforcement Board. The comments are to be submitted prior to the Code Enforcement Board public hearing and copies provided to the violator.
3. The Amelia Island Tree Commission shall be provided a copy of a restoration (mitigation) plan. They may review said plan and provide comments to the Code Enforcement Board.
4. No preservation credits shall be applicable to off-set the unauthorized removal of trees.
5. The determination of inches (DBH) removed shall be based on measuring the diameter of the remaining stump. If the remaining portion of the stump is less than four and one-half feet tall the measurement shall be based on the diameter of the remaining portion of the stump.
6. In the event that an insufficient trunk of the removed tree exists to determine replacement requirements, these facts shall be determined by a County designated arborist based upon any available information, including photographs, aerial imagery or a survey of trees of the same species existing in the general vicinity of the removed tree or trees found in the same natural community on Amelia Island.
7. In evaluating a proposed restoration plan, the Amelia Island Tree Commission and Code Enforcement Board may consider the following:
 - a. The cross-sectional area of trunk(s) removed;
 - b. The specific aesthetic character of the tree removed;
 - c. Any special function the tree carried out as a screen or buffer;
 - d. Amount of other trees preserved on the site, and the opportunities for planting additional trees;
 - e. The ability to plant trees or restore natural areas on other property on Amelia Island;
 - f. Any short-term or long-term negative environmental impacts from the unauthorized tree removal, including, but not limited to, erosion, siltation, impacts on listed plant and/or animal species, water circulation patterns, water quality standards, and floodplain capacity or conveyance (including, but not limited to, swales or overland sheet flow, where pertinent).

8. Prior to review by the Code Enforcement Board, a County retained ISA certified arborist shall review the restoration (mitigation) plan and provide a report and recommendation for consideration. The owner, developer and/or contractor shall be responsible for the cost associated with the third-party review, including the cost to appear at a hearing or continuation of a hearing.
9. Bond: The Code Enforcement Board may require a bond be acquired to insure the performance and completion of a restoration plan, and/or the maintenance and survival of the implemented restoration plan. If a bond is required, the bond amount shall be the cost to fully implement the approved restoration plan plus a 25% contingency. The cost estimate shall be provided on a form created by the County Attorney and shall require supporting documentation.
10. Withholding Approvals: No further County permits, site plan approvals or the functional equivalent for the subject property or parcel shall be issued or inspections provided until all violations of this article are corrected or a restoration plan has been approved by the Code Enforcement Board. No certificate of occupancy shall be granted unless and until the restoration plan is implemented or a performance bond satisfactory to the County and its attorney is submitted and approved by the County.
11. The removal of a healthy specimen tree not meeting the criteria defined in Section E (2), the removal of a specimen tree without a permit, or the damage of a specimen tree which kills or will more likely than not cause the tree to die shall warrant the assessment of a penalty of up to \$15,000, as determined appropriate by the Code Enforcement Board, pursuant to Sections 37.02(T) and (U) of this Article, in addition to meeting the restoration requirements defined herein.

V. **Conflict.** In the event that any section of these regulations is found to be in conflict with any other county code, ordinances or regulation, the more restrictive shall apply.

W. **Severability**

It is the intent of the Board of County Commissioners of Nassau County, Florida, and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

~~Section 37.02. Native canopy tree protection.~~

- A. ~~*Purpose and intent.* The purpose of this article is to establish regulations governing the protection of native canopy trees as listed in Table 37-4[A] as a valuable community resource within the unincorporated areas of Amelia Island to:~~
- ~~1. Encourage the retention and planting of native canopy trees;~~
 - ~~2. Recognize the importance of native canopy trees and their meaningful contribution to a healthy, beautiful, and safer community attributable to their carbon dioxide absorption, oxygen production, dust filtration, wind and noise reduction, soil erosion prevention, wetland erosion~~

~~protection, wildlife habitat, surface drainage improvement, beautification and aesthetic enhancement of improved and vacant lands; and~~

- ~~3. Promote the general health, safety, and welfare of the community. Tree protection is beneficial to the county by providing environmental and energy efficiency safeguards, improving community appearance and quality of life, enhancing property values, and creating a functional living environment for existing and future residents.~~

~~Therefore, the board of county commissioners finds that it is in the best public interest to enact and enforce the regulations described herein for the purpose of controlling the removal of native canopy trees, clear cutting and strip clearing of land in the unincorporated areas of Amelia Island.~~

~~B. General requirements.~~

- ~~1. The terms and provisions of this article shall apply as specified herein to all Class II, III and IV developments, pursuant to section 5.7 of this ordinance [article] as amended from time to time, and government agencies located within the unincorporated areas of Amelia Island.~~
- ~~2. It shall be unlawful for any person, firm or corporation, either individually or through an agent, to cut down, destroy, clear cut, remove, or cause to be destroyed through damaging any native canopy tree without first obtaining site plan approval of the development review committee and the planning and zoning board, except as specifically exempted herein. Violation of this section shall be a misdemeanor in the second degree as designated in the F.S. ch. 775.~~
- ~~3. Developers of sites that have been completely or partially cleared of trees due to agricultural/silviculture use, but have not secured site plan approval of the development review committee and the planning and zoning board, shall be required to comply with the minimum tree requirements as described in subsection I.~~

~~C. Exemptions.~~

- ~~1. Site plan approval of the development review committee and final approval of the planning and zoning board shall not be required under the following conditions and situations, as determined by the planning and zoning department unless otherwise specified:~~
 - ~~a) A bona fide agricultural/silviculture use such as tree nurseries, forest crops, farming, greenhouses and golf course maintenance.~~
 - ~~b) Removal of dead or diseased native canopy trees that have fallen from natural causes.~~
 - ~~c) Removal of native canopy trees that endanger public or private property, and the public health, safety and welfare of the community.~~
 - ~~d) Removal of native canopy trees planted on the premises of a plant nursery or tree farm that have been grown expressly for the purpose of selling to the general public in the ordinary course of business.~~
 - ~~e) Removal of native canopy trees within approved utility rights-of-way or easements that are necessary to supply gas, water, sewer, telephone, cable television, electrical service, or other needed utilities, subject to the provisions of Ordinance No. 2003-04.~~
 - ~~f) Public utilities with the power of eminent domain may remove or transplant trees either on-site or off-site.~~

- ~~g) — Emergency conditions may require the department of emergency management services to waive all, or part, of the requirements of this article in the event of manmade or natural disasters such as hurricanes, tornadoes, floods, storms/high winds, hard freezes, fires, etc. The waiver shall apply to a geographically defined area for a period not to exceed ninety (90) days. Longer periods shall require approval of the board of county commissioners.~~
- ~~h) — Class II, III and IV development properties (containing an existing structure) in existence as of the date of adoption of these regulations. Notwithstanding, any expansion or redevelopment of any existing developments requiring Class II, III, or IV review shall not be exempt from provisions of these regulations, unless the owner can clearly show that the provisions of this section will decrease the value of the existing development. Clear evidence means ownership and a concept plan (or previously approved plan) that both precede this ordinance [article].~~

~~D. — Review procedures.~~

- ~~1. — A tree inventory and retention/landscape plan shall be submitted to the development review committee, pursuant to section 5.2(10) and 5.3 of the Nassau County Development Review Regulations, as amended from time to time, prior to the commencement of any development activity, except as specifically exempted herein.~~
- ~~2. — The removal of healthy native canopy trees may be allowed for construction purposes where all reasonable alternatives have been documented and exhausted for relocating the specific construction.~~
- ~~3. — The removal/replacement of native canopy trees that are twenty-four (24) inches dbh or greater is strongly discouraged. Therefore, all reasonable alternatives or methods that are available, such as design modifications, shall be closely examined before removal will be authorized.~~
- ~~4. — During site plan review, the planning and zoning board shall consider the effect that the proposed development activity will have on the future viability of the native canopy trees to be retained/relocated within the area to be developed.~~
- ~~5. — The removal of protected native canopy trees shall be allowed, as determined by the development review committee, if one (1) or more of the following conditions exists:

 - ~~a) — *Street opening.* Tree location restricts the opening of a street or road right-of-way.~~
 - ~~b) — *Utilities and drainage.* Tree location restricts the construction of public utility lines or drainage facilities.~~
 - ~~c) — *Property access.* Tree location restricts vehicular access to the property, where there are no other reasonable access points.~~
 - ~~d) — *Property use.* Tree location restricts reasonable use of the property consistent with all other applicable city, county and state codes, statutes and/or ordinances; and design modifications are not practical or reasonable.~~
 - ~~e) — *Hazard.* A tree that constitutes a potential hazard to life or property and can be resolved by removal.~~
 - ~~f) — *Poor tree health.* Tree is dead, lacking functioning vascular tissue, or deteriorating to such a state that restoration methods to bring the tree to a sound condition are not practical; or the tree have a disease that may be transmitted to other trees, thereby endangering their health; and, as documented by a ISA certified arborist.~~~~

- g) ~~Thinning of trees.~~ Trees are so densely situated on a parcel as to significantly impair light and air circulation, which causes poor health conditions or tree disease, so that removal of up to twenty five (25) percent of such trees is necessary to alleviate the condition.
- h) ~~[Site plan.]~~ An approved site plan which includes protected trees and corresponding protection plan as recommended by an ISA certified arborist shall identify which trees are to be removed, methods of protection from impacts of construction, and the tree replacement requirements necessary to compensate for the loss of protected native canopy trees.

E. ~~Submission requirements.~~

- 1. All applicants for site plan approval for Class II, III and IV developments are hereby required to submit a tree inventory and tree retention/landscape plan as part of the standard site plan review submission procedures, including, but not limited to the following:
 - a) Developers of all new Class II, III and IV residential developments shall be required to submit a streetscape plan, including proposed tree retention and landscaping.
 - b) Each tree inventory shall have a drawing or accurate representation with an appropriate scale to show tree locations, delineating the following information:
 - (1) Property boundaries, existing and proposed structures and surrounding road system;
 - (2) Location, size, and species (utilizing botanical or common names) of all native canopy trees within areas of construction.

F. ~~Protected tree preservation/tree replacement.~~

- 1. The minimum number of protected native canopy trees to be preserved upon any development site is equal to forty five (45) percent of caliper inches within the development site as set forth herein. A protected native canopy tree is defined as a healthy tree as determined by an ISA certified arborist listed in Table 37-4[A] and is at least six (6) inches dbh in size. Healthy trees (and other vegetation) lying within designated conservation areas, jurisdictional wetlands and adjacent upland buffers must be retained but are not counted in the minimum preservation requirement. As an incentive for property owners to retain large trees, the preservation of any tree that is eightieth percentile or larger in inches dbh (of all qualifying/protected native canopy trees on the proposed development site) will generate a bonus credit value of one hundred twenty five (125) percent of the diameter of the preserved tree. In all cases, qualifying preserved and replacement trees are credited toward the minimum landscaping requirement of each property upon which they are located. By way of illustration, a development site contains an aggregate of one hundred (100) caliper inches of qualifying protected trees and the minimum preservation equals forty five (45) percent of total caliper inches within the development site. This forty five (45) inches of required tree protection can be preserved as a single thirty six inch dbh qualifying tree (based on bonus credits); or any combination of qualifying protected trees and totaling a minimum of forty five (45) caliper inches with or without bonus credits. Included in the forty five (45) percent of caliper inches for preservation shall include a perimeter preservation requirement for any six inch or larger, healthy Table 37-1 tree located within a required roadway buffer and/or within ten (10) feet of a ROW. Perimeter preservation trees can only be removed as per section 37.02(C) or 37.02(D)5.

2. ~~Unique development scenarios that prevent the forty five (45) percent preservation or perimeter preservation requirement from being met will require replacement on an inch for inch (dbh) basis with native canopy trees but only if approved by the planning and zoning board.~~
 3. ~~All replacement native canopy trees shall be a minimum of three (3) inches dbh, at the time of planting.~~
 4. ~~Replacement trees shall be planted on-site, if practical, otherwise the developer shall donate to the county and plant the required trees on public property, or alternatively, on private property where a conservation easement exists, subject to approval by the planning and zoning board.~~
 5. ~~All replacement trees shall be in good health, conform to the standards for Florida No. 1 or better as given in Grades and Standards for Nursery Plants, State of Florida, Department of Agriculture and Consumer Services, Tallahassee (97T-05, second edition, February 1998), which is hereby adopted and included by reference herein.~~
- G. ~~Tree protection during construction. Property owners/developers shall protect, during construction, all protected native canopy trees within areas of construction, as identified on the approved site plan.~~
1. ~~Prior to and during land clearing, the owner, developer or agent shall clearly mark (with red flagging) all native canopy trees proposed to be removed and shall erect barricades around the tree protection zone of all native canopy trees to be protected. The barricades must remain in place and be in good condition throughout construction. Barricades may be removed for the final grading. Building or other development permits may be temporarily revoked if protective measures are not used at any time during construction.~~
 2. ~~The following shall be prohibited within the tree protection zone (defined in article 32) of designated trees, unless authorized in writing by the planning and zoning director:~~
 - a) ~~Parking of heavy equipment, cars and trucks or vehicular traffic;~~
 - b) ~~Stockpiling of any materials;~~
 - c) ~~Deposition of soil, sediment, or mulch;~~
 - d) ~~Grading or grubbing;~~
 - e) ~~Excavation or trenching;~~
 - f) ~~Burning or burial of debris, within the entire construction site;~~
 - g) ~~Dumping oil, gasoline, paint, chemicals, wastewater, or other construction wastes. Storage of potentially hazardous materials shall be in appropriate, non-leaking containers as far away from tree protection zone as possible.~~
- H. ~~Minimum tree requirements. All Class II, III and IV non-residential developments requesting site plan approval shall meet the minimum tree requirements of section 37.05.~~
1. ~~Credit on a one (1) tree for one (1) tree basis toward the minimum tree requirements shall be given for each native canopy tree retained on-site.~~
 2. ~~Any native canopy trees planted to meet the minimum tree requirements shall be a minimum of three (3) inches dbh, ten (10) feet tall, and five (5) feet wide at the time of planting.~~
 3. ~~Fulfillment of the minimum tree requirements in this section shall not be interpreted to waive any other landscaping requirements on the part of the applicant.~~

- ~~(a) In the event that the amount of retained native canopy trees exceeds the requirements of this section, credit on a one (1) tree for one (1) tree basis towards any other landscaping requirements shall be given for each native canopy tree retained on site in excess of the minimum tree requirements.~~
- ~~(b) Proper care and maintenance of recently planted trees; i.e., necessary water, fertilizer, and support structures, shall be the property owner's/developer's responsibility, subject to the enforcement provisions of article 4 of the Nassau County Zoning Code and chapter 1, article 3 of the County Code of Ordinances.~~
- ~~(c) All required trees shall be in good health, conform to the standards for Florida No. 1 or better, as given in the Grades and Standards for Nursery Plants, State of Florida, Department of Agriculture and Consumer Services as referenced herein.~~

~~I. Harmful acts.~~

- ~~1. No person shall abuse, mutilate or otherwise damage any protected tree, as described herein, or any tree located on public property, including those trees located in the public right of way along street frontages within subdivisions.~~
- ~~2. The reasonable and proper trimming of protected trees on public or private property by authorized persons, in accordance with accepted horticultural methods established by the International Society of Arborists (ISA), shall be allowed.~~
- ~~3. No person shall attach any signs in an injurious manner to protected tree, nor shall any person cause any substance harmful to protected trees to come in contact with them, or prevent water or oxygen from reaching their roots by excessive cut and fill activities.~~
- ~~4. Violation of this section shall be a misdemeanor in the second degree as designated in the F.S. ch. 775.~~

~~J. Appeals.~~

- ~~1. It is the intent of this article that all questions of interpretation and enforcement shall be first presented to the county in accordance with section 3.03 and article 4 of the Nassau County Zoning Code.~~
- ~~2. An application for appeal of said decisions shall be presented in accordance with section 3.04(B)(7) of the Nassau County Zoning Code on matters of interpretation and to the code enforcement board on matters of enforcement.~~

~~K. Administration and enforcement. The planning and zoning department shall administer the provisions of these regulations. The code enforcement department shall enforce the provisions of these regulations. Any violation of the provisions set forth herein shall be brought to the property owner's attention by a certified letter from the code enforcement department. A violation of this article shall, in addition to other appropriate sanctions up to and including revocation of building permits, be enforced in accordance with the code enforcement board procedures as set out under chapter 1, article 3 of the County Code of Ordinances and the provisions of F.S. ch. 162. Building permits may be reinstated after tree protection measures are brought into conformance with approved site plans and any fines and code enforcement penalties (if applicable) are addressed.~~

~~L. Penalties. Penalties shall be in accordance with the requirements set forth in chapter 1, article 3 of the County Code of Ordinances.~~

M. ~~Conflict.~~ In the event that any section of these regulations is found to be in conflict with any other county code, ordinances or regulation, the more restrictive shall apply.

Article 32 - Definitions

Diameter at Breast Height (DBH): DBH (Diameter Breast Height) means the trunk diameter of an existing tree measured four and one-half feet above the average ground level at the tree base. If the tree forks between four and one-half and two feet above ground level, DBH is measured below the swell resulting from the fork. Trunks that fork below two feet, shall be considered multi-trunk trees. DBH for multi-trunk trees shall be determined by measuring each trunk immediately above the fork and adding the total diameters of the four largest trunks. (See also and compare definition for caliper in this Section.). Diameter (d) = Circumference (C) / Pi (π) or, $d=C/\pi$

Specimen Tree: Specimen Trees are any existing healthy Quercus virginiana (Live Oak), as determined by an ISA certified arborist, measuring forty-one (41) inches or more in diameter at breast height, or, a multi-trunk Quercus virginiana (Live Oak), as determined by an ISA certified arborist with an aggregate measurement of sixty (60) inches or more in diameter at breast height. The Nassau County, Florida Specimen Tree threshold is determined to be 33% of the DBH of the most recent calendar year Florida Champion Live Oak as determined by the Florida Department of Agriculture and Consumer Services.

Multi-trunk Tree: A tree that splits into two or more trunks between natural grade and 54 inches above natural grade.

Caliper Inches: Caliper means the trunk diameter of planted trees. Caliper shall be measured six inches above the ground for trees up to and including four inches in caliper, and measured 12 inches above the ground for trees exceeding four inches in caliper. If the tree has an enlarged irregular base, then the caliper measurement shall be taken up where the trunk has a more regular circumference, but in no case higher than four and one-half feet above the ground. If the tree forks between ground level and one foot above ground level, then the tree shall be considered a multi-trunked tree. Caliper for multi-trunked trees shall be determined by measuring each trunk immediately above the fork and adding the total caliper of the four largest trunks. (See also and compare definition of DBH in this Section.)

Protected tree: Any existing, healthy tree as determined by an ISA certified arborist having a five (5) inch DBH, or greater and not identified on the most recent Florida Exotic Pest Plant Council Invasive Plant list (Category I or II).

Street Trees: Trees planted near the street curb line or within swales near the curb line of streets are called street trees. Trees planted in a median between traffic lanes are also called street trees.

Understory Tree: Those trees listed in Table 37-04 of Section 37.05 LDC as amended from time to time.

Canopy Tree: Those trees listed in Table 37-1 of Section 37.05 LDC as amended from time to time.

Construction Zone: The impervious, semi-impervious area of development, related infrastructure, stormwater management systems and the lands within six (6) feet thereof.

Unified Multi-lot Development: This term references residential, non-residential and mixed-use projects which, within their project/development boundary, create multiple development tracts of land for conveyance. This would include residential subdivisions, master planned retail centers with outparcels, master planned mixed-use projects which create multiple tracts for development, and similar development programs.

Shade Tree: Any native, self-supporting woody plant of a species that is generally well-shaped, well-branched, and well-foliated which normally grows to an overall height of thirty-five (35) feet with a minimum average mature crown spread of thirty(30) feet, and which is commonly accepted by the 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.

Hat-rack/Topping: To severely prune a tree in order to permanently maintain growth at a reduced height or to flat-cut a tree, severing the leader or leaders, or pruning a tree by stubbing off mature wood larger than three (3) inches in diameter; or reducing the total circumference or canopy spread not in conformance with National Arborist Society standards.

Utility Area: The land area(s) utilized to facilitate the placement of infrastructure necessary to provide commonly expected utilities. This includes the infrastructure necessary to provide electricity, natural gas, water, sewage, stormwater collection and conveyance and telephone/cable/internet (fiber optics).

New Development: Any new construction or site work whether residential, non-residential or mixed-use, any modification, expansion, or alteration to an existing structure, alteration to any site including borrow pit construction, site grading, driveways or other similar activity, any new or expanded accessory use or structure – shed, pool, parking area, means of ingress/egress, drainage facility, pond, etc., and/or any other aspect of site or structural development or modification that may adversely impact existing trees.

Open-space: An area open to the sky, which may be on the same lot with a building. The area may include, along with the natural environmental features, swimming pools, tennis courts, or any other recreational facilities. Streets, structures for habitation and the like shall not be included. Landscaped or undeveloped lands suitable for resource-based recreation or conservation uses. The term open space shall not include lands utilized for excavations such as ponds, fishing ponds, borrow pits, stormwater management facilities or other similar development activity.

Tree Protection Barricade: A protective barrier signifying the boundary of the tree protection zone. The tree protection barricade shall be at least three (3) feet tall. The barrier shall consist of either a wood fence with 2x4 posts placed at a maximum of eight (8) feet apart, with a 2x4 minimum top rail, or a temporary wire mesh fence supported by 2x4 post spaced at no more than eight (8) feet, chain link or other similar barrier which limits access to the protected area.

Barricades (as differentiated from Tree Protection Barricades): A post and rail configuration used for the protection of trees during construction activity. The upright posts shall be a minimum of a two (2) by two (2) inch (common industry standard) wooden stake, four (4) feet long. A minimum of a one (1) by four (4) inch (common industry standard) wooden board shall be used to connect the upright posts. High-visibility heavy-gauge tape may be substituted for the one (1) by four (4) inch connecting boards. The barricade

tape must be a minimum of three (3) inches wide, and of seven (7) mil-thick polyethylene construction, and be a high-visibility color. See Tree Protection Barricades

Limits of Disturbance: A boundary denoting the maximum extent of any development activity. Development activity includes, but is not limited to, storage of material or equipment, access roads, haul roads, excavation, grading, deposit of fill material or aggregate, site work, erection of a structure, placement of construction trailers, placement of dumpsters, installation of utilities, operation of heavy equipment, or any other development related activity. Areas outside the Limits of Disturbance are not to be impacted by development activity.

Tree protection zone: A circular zone around each protected tree as follows:

(1) If the drip line is less than six (6) feet from the trunk of the tree, the protection zone shall be that area within a radius of six (6) feet around the tree trunk.

(2) If the drip is more than six (6) feet but less than twenty (20) feet from the trunk of the tree, the protection zone shall be that area within the radius of the full drip line around the tree trunk.

(3) If the drip line is twenty (20) feet or more from the trunk of the tree, the protection zone shall be that area within a radius of twenty (20) feet around the tree trunk.

A circular area around a protected tree with a radius equal to six times the diameter of the trunk of the protected tree at breast height. In no case shall a tree protection zone be less than seventy-two (72) inches. As an example, a protected tree with a DBH of fifty (50) inches will have a tree protection zone with a radius of three-hundred (300) inches. A protected tree with a DBH of eight (8) inches will have a tree protection zone of seventy-two inches (72).

Low impact development (LID): An approach to land development that preserves and protects natural-resource systems using various site planning and design approaches and technologies to simultaneously conserve and protect natural resource systems while managing stormwater runoff. The approach includes using engineered small-scale hydrologic controls to replicate the pre-development hydrologic regime through infiltrating, filtering, storing, evaporating, and detaining runoff close to its source.

SECTION 4. CODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall be included and incorporated into the Land Development Code (LDC) of Nassau County, Florida. The codifier may re-letter or renumber sections to conform to the uniform numbering and style of the LDC.

SECTION 5. SEVERABILITY

It is the intent of the Board of County Commissioners of Nassau County, Florida, and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 6. EFFECTIVE DATE

This ordinance shall take effect upon filing with the Secretary of State as provided in Section 125.66, Florida Statutes.

ADOPTED THIS _____ DAY OF _____, 2019 BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA

Its: Chairman

ATTEST as to Chairman's Signature:

JOHN A. CRAWFORD
Its: Ex-Officio Clerk

Approved as to form

Michael S. Mullin,
County Attorney