



City of Atlantic Beach

Agenda

**Environmental Stewardship Committee (ESC)
Meeting**

Wednesday, January 8, 2020 - 6:00 p.m.

Commission Chamber

City Hall, 800 Seminole Road

Page(s)

1. CALL TO ORDER AND ROLL CALL

2. APPROVAL OF MINUTES

- 2.A. Approve minutes of the December 11, 2019 regular Environmental Stewardship Committee meeting.

3. ELECTIONS

- 3.A. Election of the chair
- 3.B. Election of vice-chair

4. COURTESY OF THE FLOOR (5 MINS.)

5. REPORTS

- 5.A. Arbor Day (January 17, 2020)- events and timeline
- 5.B. LEED for Cities Update 3 - 4
[LEEDS update -staff report 01032020](#)
- 5.C. Parks Master Plan update

6. OLD BUSINESS

- 6.A. Tree code update 5 - 44
[Tree Ord update staff report](#)
[Attorney ordinance comments responses 2nd review 10-30-19](#)
[Regulated trees notes](#)
[Preservation credit notes](#)
[Regulated trees notes for ESC](#)
[preservation credit numbers - examples](#)

7. NEW BUSINESS

- 7.A. 2020 Priority setting meeting - January 22, 2020 45 - 46
[2019 ESC WORKPLAN dot results 4.16.19](#)

8. ADJOURNMENT

Any person wishing to speak to the Environmental Stewardship Committee on any matter at this meeting should submit a Comment Card located at the entrance to Commission Chamber prior to the start of the meeting. Please Note: This meeting will be videotaped. To view the meeting video, contact the City Clerk's Office at (904) 247-5810 or send a request by email to Lori Diaz at ldiaz@coab.us.

In accordance with the American with Disabilities Act and Section 286.26 of the Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact City Clerk Donna Bartle at 247-5809 or at City Hall, 800 Seminole Road, Atlantic Beach, Florida not less than three (3) days prior to the date of this meeting.

**CITY OF ATLANTIC BEACH
STAFF REPORT**

ITEM: LEED For Cities Update

SUBMITTED BY: Amanda Askew, Director of Planning and Community Development

TODAY'S DATE: January 3, 2020

MEETING DATE: N/A

BACKGROUND: After almost a year of working, the City was granted the silver LEED certification in July 2019. As part of the process a guide/roadmap was formulated to further our status with the certification. This roadmap listed priorities from the required LEED categories; Energy, Water, Waste, Land Use and Transportation, Vulnerability Adaptation & Resiliency Planning and, Human Experience/Quality of Life. The Environmental Stewardship Committee (ESC) voted on their top ten (10) most important LEED roadmap priorities. Ranked in order below are the top ten (10) recommended priorities:

1. Develop a Vulnerability, Adaptation, and Resiliency Plan to address impacts related to climate Change and extreme weather events.
2. Education and outreach to the community (Vulnerability, Resiliency, and Adaptation).
3. Ban Styrofoam and no-recyclable plastic container from food at retail outlets.
4. Increase recycling receptacles in the public realm.
5. Develop incentives for water efficiency measures in landscaping and building design
6. Require that public infrastructure and facility managers consider energy consumption implication for new or upgraded infrastructure investments.
7. Incorporate best practice sustainability principles into neighborhood planning.
8. Develop and adopt an official Complete Streets policy.
9. Establish enterprise zones, arts or cultural districts, or overlay zoning that encourages business in the creative industries to cluster together and integrate with surrounding neighborhoods.
10. Provide services to enable residents and businesses to recycle and reduce their waste footprint.

With support from Commission and the ESC, the City staff has been working on the following initiatives to improve the LEED score.

1. Applied for grant funding from the state for a sea level rise Adaptation Plan. The plan will determine the appropriate and necessary actions to be taken to mitigate physical and social vulnerability to enhance resiliency.
2. Presented the Vulnerability Assessment to community groups such as Beaches Watch and the Presbyterian Church.

3. Land Development Regulation code change to reduce total impervious lot area in all residential zoning districts.
4. Implemented the Beach Litter Basket program. We hope this program will help remove trash and plastics from the beach, some of which can be recycled.
5. Planted approximately 100 new trees since December of 2019. The trees sequester carbon, reduce stormwater runoff, improve water quality and, lower urban heat island.
6. Working on the Parks Master plan that will include the beautification of City parks through green infrastructure and sustainable design.
7. At the 10th Street Beach Access, added a new bicycle rack and landscaping. Bike racks encourage people to bike which reduces the vehicle miles driven which directly relates to the reduction in greenhouse gases and wear and tear on our streets. The landscaping helps stabilize the ground and reduce stormwater runoff.
8. Installed new lighted crosswalk warning signals at 1) Plaza and Royal Palms Drive and 2) Sherry Drive and Sturdivant Avenue. This creates a safe environment for people accessing the multi-purpose path (thus reducing vehicle miles travelled).
9. Replacing Christmas decorations along street lights with LED bulbs. Reducing power consumption from 48 watts to 4 watts per decoration.
10. Drafting a complete streets policy and resolution.
11. Commission and ESC discussion on a ban on Styrofoam and plastics.
12. Installed the multi-purpose path along Seminole/Sherry.
13. Resolution of support to the Transportation Planning Organization (TPO) for the Mayport Road diet (complete street project).
14. Working with the local Boy Scout Troop to build a "bat condo" for a large bat population which will reduce community need for pesticides/insecticides.
15. Researching a variety of composting options from City staff level to entire neighborhoods.
16. Researching Florida's local level municipal efforts to regulate and/or ban styrofoam and single use plastics.
17. Researching solar retrofits for City buildings.
18. Researching the eligibility requirements to participate in the state of Florida Property Assessed Clean Energy (PACE) program. PACE is a way for qualified property owners to finance energy efficiency, renewable energy and wind-resistance improvements through a long-term property assessment.

**CITY OF ATLANTIC BEACH
STAFF REPORT**

ITEM: Tree Ordinance Update

SUBMITTED BY: Amanda Askew, Director of Planning and Community Development

TODAY'S DATE: January 3, 2020

MEETING DATE: January 8, 2020

BACKGROUND: The City Commission established a list of priorities in 2018 that included Environmental Stewardship which stated, "An environmental initiative demonstrating the COAB's commitment to being a sustainable community through... the pursuit of Tree City USA designation." One of the requirements to be a Tree City USA is a tree protection ordinance.

In the fall of 2018, the ESC, with the assistance of staff, put together a series of conceptual changes to the Tree Protection Code (TPC) that were recommended to the City Commission.

In these efforts, the ESC held three dedicated workshops in 2018 on September 26, October 3, and October 9 plus discussion at their regular meetings. The ESC voted unanimously to recommend the proposed conceptual changes to the Commission at the November 14, 2018.

On April 8, 2019 staff and the ESC chair presented the proposed changes to City commission. After a lengthy discussion, Commission reached a consensus to send the TPC back to ESC for further review and discussion.

In May of 2019, new changes to state legislation regarding unhealthy and/or damaged trees required additional review to the Tree Protection Code. The city attorney reviewed and made modifications to the code to come in compliance with the state legislation.

Major changes to the TPC already discussed and included in the new code include:

- New variance provisions
- Heritage Tree exemptions
- Tree protection during all construction
- Clarification of calculations
- Tree Fund uses on private property
- Various minor recommended changes

However since the ordinance was still under review, staff would like to make some additional changes. The changes were presented to the ESC on October 9, 2019 and work shopped again at the December meeting. The proposed sections recommend for changing are listed below:

- Definition of regulated tree – Currently the definition includes trees six (6) inches or greater on property that will have or did have construction within 2 years and it is valued over \$10,000. This is hard for public to understand and follow, creates loopholes, hard to enforce and leaves larger hardwood unprotected.
- Preservation Credit – modify or eliminate preservation credit. The existing code is outdated and results in all trees 3 inches to 5.9 inches receiving credit if property has \$10,000 worth of construction. It also results in all non-legacy trees receiving credit if property does not have \$10,000 worth of construction.

Chapter 23 - PROTECTION OF TREES AND NATIVE VEGETATION^[1]

ARTICLE I. - IN GENERAL

Sec. 23-1. - Purpose and intent.

- (a) *Purpose.* The provisions of this chapter are established for the purpose of enhancing, conserving, restoring, protecting and preserving the natural environment, specifically related to trees and native coastal dune vegetation. Priority shall be given to the protection and preservation of existing resources.
- (b) *Intent.* The provisions of this chapter are intended:
 - (1) To establish efficient and effective procedures, regulations and guidelines for the protection of existing vegetation, installation of native landscaping and maintenance thereof regarding vegetation including, but not limited to, trees, shrubs, salt marsh and beach dune grasses, and ground covers.
 - (2) To promote and sustain community values by providing for an aesthetically pleasing environment where a healthy tree canopy is maintained and regenerated.
 - (3) To protect natural systems and avoid impairment of their natural functions including the provision of shade and cooling on lots and development parcels, sidewalks, streets and other public places.
 - (4) To provide protection for environmentally sensitive areas.
 - (5) To encourage protection of healthy trees and provide for replacement and/or relocation of trees which are necessarily removed during construction, development or redevelopment.

Sec. 23-2. - Applicability.

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

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

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

Sec. 23-4. - Amendments to this chapter.

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

Secs. 23-5—23-7. - Reserved.

ARTICLE II. - LANGUAGE AND DEFINITIONS

Sec. 23-8. - Definitions.

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

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

Adverse site conditions shall mean existing site conditions that unfavorably affect the implementation of the provisions of this chapter and that hinder plant viability and growth. Examples include, but are not limited to:

- (1) Existing topographic elevation changes that would result in the likelihood that preserved or planted materials would not survive.
- (2) Existing areas of buried solid waste at a depth that would affect viability of preserved or planted materials.
- (3) Existing electrical lines or utility easements that prevent or restrict the preservation or planting of landscape materials.
- (4) Barrier island or dune ecosystem planting conditions that cannot support certain hardwood species.
- (5) Redevelopment sites where existing landscaping does not meet current standards and where existing site conditions such as, but not limited to, impervious surfaces, access locations, or building locations, prevent the site from meeting the current requirements.
- (6) Sites where type or distribution of existing canopy or other protected trees are such that preservation requirements would prohibit site development or conflict with required development standards, such as stormwater or roadway designs.
- (7) Designs and plans that do not, to the greatest extent feasible, avoid encroachment upon preservation areas and/or trees are not considered adverse site conditions.

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

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

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

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

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

Atlantic Beach Recommended Species List shall consist of species that are best adapted to the local ecosystem, which may provide the most desirable characteristics to the community.

~~Replacement credit may only be given for trees on the recommended species list in section 23-33(f)(1)j.~~

~~*Buildable area* shall mean the area of a site, parcel or lot, excluding any area which is not eligible for the issuance of a building permit by the city, such as building setback areas, shoreline protection buffers, coastal construction setback areas, wetlands and other similar areas required pursuant to the applicable provisions of this chapter and the land development regulations.~~

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

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

Certified arborist shall mean any person holding a valid and current arborist certification as issued by the International Society of Arboriculture (ISA).

City shall mean the City of Atlantic Beach.

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

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

Commented [BEB1]: Brenna: Why delete?
Response: It is stated later on in code in section 23-33, redundant.

Commented [BEB2]: Brenna: Why delete?
Response: No longer applicable, code used to differentiate trees based on in or out of buildable area but no longer does.

Community forest shall mean the collection of trees in and around the City including park and street yard trees on public property, and yard trees on private property.

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

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

Development or development activity shall mean any alteration of the natural environment which requires the approval of a development or site plan and issuance of a development permit; shall also include the "thinning" or removal of trees from an undeveloped land, including that carried on in conjunction with a forest management program, and the removal of trees incidental to the development of land or to the marketing of land for development and shall also include activities defined as development with section 24-17 of this Code of Ordinances.

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

Diseased tree shall mean a tree with a sustained or progressive impairment caused by a parasite, pest or infestation which seriously compromises the viability of the tree, in that it is unlikely the tree will remain living and viable for a period of more than three (3) years, or the tree causes other imminent peril to viable trees, existing structures or persons in the vicinity of the diseased tree.

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

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

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

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

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

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

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

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

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

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

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

Invasive exotic plant shall mean an exotic plant species that has escaped cultivation, naturalized, and established in a natural area allowing it to aggressively expand and reproduce on its own, and subsequently, alter native plant communities by out-competing for resources such as light, nutrients, water and space, killing native species, or otherwise adversely affecting natural ecosystems. Invasive exotic plants are those plants recognized on the Florida Noxious Weed and Invasive Plants List (F.A.C. 5B-57.007) or listed on the Atlantic Beach Prohibited Species List.

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

Legacy tree shall mean a tree that is of the most desirable species in Atlantic Beach, and is of a size substantial enough to warrant an additional layer of protection. A permit is required any time a

legacy tree is removed in Atlantic Beach. Mitigation shall be the same rate for legacy trees as it is for other protected trees.

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

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

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

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

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

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

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

Person shall mean any landowner, lessee, building contractor, developer or other entity involved in the use of real property, including agents, employees, independent contractors, whether persons, firms, associations, corporations, partnerships, joint ventures, estates, trusts, business trusts, syndicates, fiduciaries, governmental bodies, agencies or officials.

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

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

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

Qualified professional shall mean a person who possesses, in addition to skill, a special registration, certification, or knowledge which is obtained by formal education and training, and which is inherently or legally necessary to render him or her capable, competent, and eligible to perform the particular responsibilities called for.

Regulated tree shall mean any tree as follows:

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

a. A DBH of six (6) inches or more on residentially zoned property that will be removed two (2) years prior to or two (2) years subsequent to construction valued at over ten thousand dollars (\$10,000.00);

b a. Trees defined as legacy trees by this chapter;

e b. A DBH of ten (10) inches or more, if zoned nonresidential.

(2) *Public regulated tree* shall mean any tree on public property, except those species listed on the Atlantic Beach Prohibited Species List, meeting the following conditions:

a. A DBH of six (6) inches or more.

(3) *Heritage tree* shall mean any tree determined by the city commission to be of unique or intrinsic value due to its age, size, species and/or cultural, ecological or historical significance or some other contribution to the city's character, specifically including all Cypress, Live Oak and Magnolia trees with a DBH of thirty (30) inches or greater and in good condition, as determined by a recognized knowledgeable person or qualified professional; also, any tree designated as a Florida State Champion, United States Champion, or World Champion by the American Forestry Association. Heritage trees may be located within parks, on street yards, or other public property. On private property, heritage trees are voluntarily nominated

Commented [AA3]: Consider Removing bc it is confusing to the public and hard to enforce. Results in people skirting the code (loopholes). Results in larger Laurel and Water Oaks being unprotected.

by the property owner. The city administrator shall keep a record of all heritage trees so designated and their location.

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

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

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

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

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

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

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

- (1) Large: Having an average mature height of fifty (50) feet or more.
- (2) Medium: Having an average mature height of at least thirty (30) feet but less than fifty (50) feet.
- (3) Small: Having an average mature height of at least fifteen (15) feet but less than thirty (30) feet.

Tree conservation trust fund (tree fund) shall mean an account established by the city to provide an opportunity to make equivalent value cash payment to the city in lieu of providing the required landscape or tree stock on a site.

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

Tree protection zone shall mean the area located around the perimeter of the dripline of a tree in which no activity such as clearing, filling, excavating, storage of materials, parking of vehicles, or any other activity that in the opinion of the administrator may damage the tree. At the discretion of the administrator, the tree protection zone may be reduced for trees located on smaller lots in order to reasonably protect the tree and facilitate construction on the development parcel.

Tree removal shall mean any act that physically removes the tree or its roots from the earth or causes a tree to die including, but not limited to, changing the natural grade above or below the root system or around the trunk or improper pruning where the natural form of the tree is permanently changed and results in tree death or decline.

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

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

Underbrushing shall mean the removal of understory vegetation, either by hand or with the use of equipment, which neither disturbs the soil nor causes the destruction of any tree.

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

Vacant lot shall mean any property not previously developed with a structure of any kind or a property where all structures were removed more than twenty (20) years from the date of the tree removal permit application and vegetation on the property has been allowed to grow in an unmaintained and natural way.

Variance shall mean relief granted from certain terms of this Chapter. The relief granted shall be only to the extent as expressly allowed by this Chapter and may be either an allowable exemption from certain provision(s) or a relaxation of the strict, literal interpretation of certain provision(s).

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

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

Viable shall mean having the capacity to live and develop.

Waiver shall mean a limited deviation from a specific provision(s) of this chapter or other land development regulations contained within City Code, when it is demonstrated that compliance with such provision(s) would be unreasonable, in conflict with the public interest, or a practical impossibility. A waiver from the land development regulations this chapter may be approved by the city commission upon showing of good cause, and upon evidence that an alternative to a specific provision(s) of this chapter shall be provided, which conforms to the general intent and spirit of the chapter.

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

Secs. 23-9—23-10. - Reserved.

ARTICLE III. - TREE AND VEGETATION REGULATIONS²¹

DIVISION 1. - IN GENERAL

Sec. 23-11. - Scope.

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

DIVISION 2. - ADMINISTRATION

Sec. 23-12. - City commission.

The city commission shall have the following authorities and responsibilities:

- (1) To establish fees and fines related to the administrative costs of carrying out the requirements of this chapter.
- (2) To establish a tree conservation trust fund to collect and disburse monies for the purpose of growing and maintaining the city's community forest.
- (3) To amend this chapter as may be needed to accomplish the stated purpose and intent of this chapter.
- (4) To hear and decide appeals where it is alleged there is an error in any order, requirement or decision made by the Community Development Board administrator in the implementation of this chapter.

Sec. 23-13. - Administrator.

Commented [BEB4]: Brenna: does this apply to either?
Response: yes, applies to both trees and understory

Commented [BEB5]: Keep with Derek's deletions

The administrator shall have the following authorities and responsibilities:

- (1) To accomplish all administrative actions required by this chapter, including issuance of proper notices; receipt and review of applications; issuance of tree and vegetation removal permits; receipt and processing of appeals and any stop work orders.
- (2) To maintain all records relating to this chapter and its administration.
- (3) To provide written instructions to applicants related to the required process for applications as required by this chapter.
- (4) To receive, process and make administrative determinations on all applications for tree and vegetation removal permits as set forth in section 23-23.
- (5) To refer applications for tree and vegetation removal to other departments and agencies for comment, as set forth in section 23-23, as may be needed.
- (6) To conduct field inspections as needed to make determinations related to tree and vegetation protection or removal.
- (7) To review preliminary development plans, applications for certain building permits, including site and lot plans with appropriate city staff, to determine whether proposed construction, alterations, repair or enlargement of a structure is in compliance with the provisions of this chapter.
- (8) To recommend to the city commission projects consistent with the purpose and intent of this chapter, with a written statement outlining the costs and benefits of such projects.
- (9) To recommend to the city commission amendments consistent with the implementation of the purpose and intent of this chapter, with a written statement outlining the need for such changes.

Sec. 23-14. - Tree conservation trust fund.

- (a) *Establishment of trust fund.* The city commission hereby recognizes and reaffirms the prior establishment of the tree conservation trust fund ("tree fund") for the purposes of accepting and disbursing monies paid to the city as part of tree mitigation and any other funds deposited with the city for the purpose of tree and vegetation conservation and protection. This fund shall be used solely for the planting of trees, the protection and conservation of existing trees where appropriate, or the re-establishment of vegetative resources in the city and any other ancillary costs associated with such activities, provided that such ancillary costs shall not exceed twenty (20) percent of the cost of the particular project.
- (b) *Terms of existence.* The tree fund shall be self-perpetuating from year to year unless specifically terminated by the city commission.
- (c) *Tree fund assets.* All funds received shall be placed in trust for and inure to the public use and environmental benefit of the city. ~~Said funds shall be used and distributed as designated by the city commission.~~
- (d) *Tree fund administration.*
 - (1) Trust funds shall be used only for the purposes designated by the city commission in accordance with the intent of this chapter and the applicable goals, objectives and policies as set forth within the comprehensive plan.
 - (2) All mitigation funds collected pursuant to this chapter shall be deposited into the tree fund, which shall be a separate account established and maintained apart from the general revenue fund of the city.
- (e) *Disbursal of tree conservation trust fund assets.*
 - (1) Expenditures for projects funded by the tree conservation trust fund shall be made in accordance with the established purchasing procedures of the city.
 - (2) Priority shall be given to the use of funds for projects that plant or replace trees or vegetation along public rights-of-way or on properties and lands in public use or on private property, provided the trees are planted within the front yards or in the case of corner lots only, the side yards which adjoin a public right-of-way for corner lots, that will provide needed shade, aesthetic enhancement or the re-establishment of tree canopy in neighborhoods and along public roadways. For trees planted on private property, the property owner shall be responsible for maintaining the health of the tree(s). Should any tree die or be in a state of decline within three (3) years of being planted, the property owner shall be required to replace the tree within sixty (60) days of that determination.

Secondarily, funds may be used for purchase of landscape materials or equipment necessary and proper for the preservation, maintenance, relocation or restoration of trees and ecosystems on any public land in the city, or for the funding of community educational programs which promote, enhance or implement the goals and objectives established in this chapter.

(3) The Environmental Stewardship Committee shall review and make recommendations on the disbursal of tree conservation trust fund assets to the City Commission. The City Commission shall have final approval on all disbursals of the tree conservation trust fund assets.

Secs. 23-15—23-20. - Reserved.

DIVISION 3. - PERMITS

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

(1) Unless specifically exempted within following section 23-22, permits are required for removal of trees on all lands within the City of Atlantic Beach, which shall include the following:

(a) New development on any previously undeveloped or vacant lands, or redevelopment on any vacant land where structures may have been fully or partially cleared.

(b) Major development on all existing developed sites having any structure or vehicle use areas where additions, renovations, upgrades or site changes are intended or anticipated within a two-year period of time when any such activity is valued at ten thousand dollars (\$10,000.00) or more. Where value is in question, determination shall be made by the building official.

(c) Clearing, excavation, grading, grubbing or trenching of previously undeveloped land, regardless of whether any future development is intended or anticipated; it being the intent of the city that no parcel, site or lands be indiscriminately or unnecessarily cleared of regulated trees and regulated vegetation unless mitigation or replacement as required by this chapter is provided.

(d) Removal of any tree on the Atlantic Beach Legacy Tree List.

(2) Notwithstanding any provision in this Chapter to the contrary, the City may not require a notice, application, approval, permit, fee or mitigation for the pruning, trimming, or removal of a tree on residentially used property if the property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a FL licensed landscape architect that the tree presents a danger to persons or property.

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

In addition to the provisions of Section 23-21(2) above, the following activities shall be exempt from the requirements to apply for and receive a tree or vegetation removal permit, except that none of the following exemptions shall be construed to apply to any coastal dune vegetation seaward of the coastal construction control line or to heritage trees, except as provided herein. Such vegetation and trees shall be fully subject to the provisions of this chapter and any state permitting requirements applying to the coastal zone. All other development activity as described in preceding section 23-21 involving the removal of regulated trees and regulated vegetation shall require issuance of a tree removal permit.

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

(1) ~~No development activity or minor development activity on previously developed sites. Minor development activity involves any new construction, exterior additions, renovations or upgrades that are valued at less than ten thousand dollars (\$10,000.00.) For the purpose of determining whether this exemption does or does not apply, the administrator shall consider the cumulative valuation of all permits issued two (2) years prior and two (2) years~~

~~subsequent to the tree removal. If such permits collectively exceed the stated threshold, an after-the-fact permit and mitigation shall be required.~~

Commented [AA6]: Removed to be consistent with the deletion in section 23-8 (definitions).

- (2 1) *Emergency situation.* The removal of trees destroyed or severely damaged during or immediately following an emergency (i.e., hurricane, tropical storm, tornado, flood or any other act of nature) shall be granted an exemption when the administrator determines that permitting requirements will hamper private or public work to restore order to the city.
- (32) *Safety hazard.* The removal of trees that pose imminent danger to the public health, safety and general welfare shall be granted an exemption upon inspection and determination by the administrator that immediate removal without delay is required.
- (43) *Diseased or pest-infested trees.* The removal of diseased or pest-infested trees shall be granted an exemption upon inspection and determination by the administrator that removal is needed for the purpose of preventing the spread of disease or pests.
- (54) *Noxious invasive trees.* The removal of invasive or nuisance trees, as currently listed by the Florida Department of Agriculture and Consumer Services (FDACS), Florida Department of Environmental Protection (FDEP), the Florida Exotic Pest Plant Council (FEPPC), the Atlantic Beach Prohibited Species List, or some other recognized authority, shall be granted an exemption upon inspection and verification by the administrator.
- (65) *Utility operations.* The pruning and/or removal of trees or understory vegetation by duly authorized communication, water, sewer, electrical or other utility companies or federal, state, county or city agencies, or engineers or surveyors working under a contract with such utility companies or agencies, shall be exempt, provided the removal is limited to those areas necessary for the maintenance of existing lines or facilities or for the construction of new lines or facilities in furtherance of providing utility service to its customers, and provided further that the activity is conducted so as to avoid unnecessary removal and, in the case of aerial electrical utility lines, is not greater than that specified by the National Electrical Safety Codes as necessary to achieve safe electrical clearances. Notwithstanding this exemption, any such entity shall provide adequate prior notice to the city before commencing such work.
- (7 6) *Surveyors/engineers.* The pruning of trees and/or removal or understory vegetation by a Florida-licensed land surveyor or engineer in order to provide physical access or view necessary to conduct a survey or site examination for the performance of professional duties related to land surveying, soil percolation and/or soil bore tests shall be exempt provided that such alteration is limited to a swath of ten (10) feet or less in width. However, land clearing for surveys shall not authorize the removal of regulated trees or regulated vegetation.
- (8 7) *City crews.* The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within public rights-of-way, within any utility or drainage easements or within the illumination areas of street lights, and other public lands as may be necessary, and shall not be subject to mitigation assessment. The city shall not have the responsibility to maintain, prune or remove any damaged, dead or diseased trees on any private property within the city.
- (9 8) *Heritage Tree exemption.* Heritage Trees shall be exempt from the requirement of tree removal permit under numbers two (2), three (3) and four (4) of this Section only upon verification by a certified arborist or Florida licensed landscape architect finding that the Heritage Tree is not salvageable.

Sec. 23-23. - Permits procedures.

- (a) *Application required.* The applicant for a tree removal permit shall submit the established fee along with the application form as created and provided by the city to the designated administrative department. The application shall contain all required narrative and graphical information necessary to determine compliance with this chapter. If the applicant is not the property owner, proper owner's authorization shall also be required.
 - (1) *Existing lots or parcels.* When a tree or vegetation removal permit is required, applications for tree or vegetation removal shall be made prior to removal and prior to any site disturbance or grading on a lot or parcel.
 - (2) *New or re-platted subdivisions.* Applications for tree or vegetation removal that will be part of a new subdivision plat or a re-plat shall be submitted along with the preliminary subdivision plat application so that due consideration may be given to the protection of regulated trees

and regulated vegetation during the site planning and subdivision process. Trees to be protected shall be noted on the final subdivision plat, and subsequent applications for individual lots or parcels shall be consistent with the approved final subdivision plat, or application for a new tree removal permit shall be required.

- (3) *After-the-fact permits.* Any person(s) engaging in the removal of regulated tree(s) or regulated vegetation prior to obtaining a permit will be required to apply for and obtain an after-the-fact permit, and meet mitigation requirements as assessed.
- (b) *Sufficiency review of applications.* Upon receipt of the application and appropriate fee, the administrator shall conduct a preliminary review within five (5) business days to determine that all required information has been submitted and is sufficient for review purposes. The administrator may refer the application to other city department(s) or a qualified professional consultant during preliminary review. The applicant shall be notified if extended review by other departments and/or professionals is required. The applicant shall be notified of any deficient items. Upon submittal of deficient or missing information, the administrator shall again review the application. If the requested information has not been provided or is insufficient, the applicant shall be notified in writing that no further review will be performed until the requested information is provided and found to be sufficient.
However, an application shall be deemed abandoned thirty (30) days after the date the administrator notifies the applicant of any deficiencies contained in the application if the applicant has failed to submit the deficient or missing information. The administrator may, upon written request and justification by the applicant, grant not more than one (1) 30-day extension. At the expiration of the extension, the application shall automatically become null and void.
- (c) *Review by other agencies.* At the discretion of the administrator, relative to the environmental sensitivity of the site, appropriate written sign-offs, permits or consents from the agencies listed below which have jurisdiction may be required prior to regulated tree or regulated vegetation removal from sites contiguous to or containing environmentally sensitive areas or lands. The applicant shall obtain this information and submit the agencies' written verification to the city:
 - (1) Army Corp of Engineers (ACOE);
 - (2) Saint Johns River Water Management District (SJRWMD);
 - (3) Florida Department of Environmental Protection (FDEP);
 - (4) Any other applicable governmental agencies extending jurisdictional controls over the site.
- (d) *Compliance review and approval of applications.* Applications will be reviewed and tree or vegetation removal permits will be issued in accordance with the following:
 - (1) *Time for review.* Once an application has been deemed sufficient, the administrator shall conduct a full compliance review of the application and issue a notice of intent to issue a tree permit to approve or approve with conditions, or deny the application in accordance with the procedures set forth in section 23-52(g) hereof.
 - (2) *Standards for review.* The administrator shall consider the following in making a determination of compliance with the provisions of this chapter.
 - a. Necessity to remove trees which pose a safety hazard, as determined by the director of public works, to pedestrian or vehicular traffic, or threaten to cause disruption to public services or result in a significant obstacle to accessing and utilizing public easements and rights-of-way.
 - b. Necessity to remove trees which pose a threat to buildings and other improvements on a lot or parcel of land. Ordinary small cracks or uplifts in pavement, sidewalks, and non-occupied structures that are typically caused by settling and small roots shall not be considered a safety hazard.
 - c. Necessity to remove diseased trees or trees weakened by age, storm, fire or other injury, or trees with severe structural defects that pose a safety hazard to people, buildings, or other improvements on a lot or parcel of land.
 - d. Necessity to remove trees in order to construct approved and permitted improvements to allow reasonable economic enjoyment of the property.
 - e. Existence of any adverse site conditions which may affect the implementation of the provisions of this chapter.
- (e) *Expiration of permits.* ~~Upon approval of the application by the administrator, the permit shall be issued.~~ Work pursuant to the permit shall commence within six (6) months of the date of

issuance, or the permit shall expire. [If the tree removal permit is in connection with a permit for development, the tree removal permit shall pass its final inspection before the applicable development permit's final inspection, or issuance of Certificate of Completion or Certificate of Occupancy, as applicable.](#)

- (f) *Content of permits.* The permit shall be issued in such form as may be prescribed by the administrator and shall set forth in detail the conditions upon which the permit is granted and specifically identify which land areas shall be cleared and/or which trees shall be permitted to be removed. One (1) permit may cover several trees or groups of trees as long as the trees or groups of trees can be clearly identified thereon; provided, however, no permit may be issued for more than one (1) lot, parcel or area of land unless such lots, parcels or areas of land shall be contiguous to one another and considered as one (1) parcel for the purpose of development.
- (g) *Posting of permits.* The permit shall be posted in a conspicuous and visible place at the front of the property by the applicant [promptly after issuance prior to any removal activity.](#) The permit shall remain posted on the property during all applicable tree and vegetation removal activity and until final inspection by the city. It is the responsibility of the applicant to maintain the permit in a clearly visible manner at all times.
- (h) *Amendment of permits.* Requests for minor changes to approved plans shall be made as an amendment to the applicable permit, and shall require payment of an administrative processing fee. Additional information submitted with a request for permit amendment shall be adequate to fully document the nature of the proposed change and the effect it will have on all aspects regulated by this chapter. All plans, reports, calculations, and other information affected by the proposed amendment shall be updated so as to maintain an accurate record of the development activity. Review time for any changes to plans approved for a permitted site shall be the same as specified for the review of a new application. An amendment to a permit shall not automatically extend the expiration date.
Substantial changes, including significant increases in the number of trees to be removed or land to be cleared, increases in impervious surface area, changes to intended land use, modification of stormwater management systems, or any other change that constitutes a major modification to a site plan or subdivision, new phases of development or other additions, shall not be treated as amendments, but shall require a new permit application and fee.
- (i) *Revocation of permits.*
 - (1) *By administrator.* The administrator may revoke any permit issued pursuant to this chapter, following notice in writing to the permittee and after providing the permittee opportunity to respond to the notice, in either of the following circumstances:
 - a. The administrator finds that the permittee has continued with any development activity on a site for which a permit was issued, while the site is under a stop work order which has not been reversed, canceled or suspended pursuant to this chapter, except for specified remedial work required to bring the violation into compliance with the approved permit; or
 - b. If the administrator finds that the approval of the permit was based on incorrect information furnished by the applicant for the permit. Based upon such finding, however, the administrator may make reasonably necessary accommodations to the conditions of a permit in lieu of revoking it.
 - (2) *Discontinuance of work.* Revocation of a permit may also result in a stop work order in accordance with section 23-48.

Sec. 23-24. - Inspections and site preparation.

- (a) *Inspections.* The following inspections shall be conducted in conjunction with all development activities subject to the requirement for a tree or vegetation removal permit.
 - (1) *Initial inspection.* The administrator shall conduct an initial inspection of the site prior to approval of any application.
 - (2) *Protective barricade inspection.* A protective barricade inspection shall ensure proper installation of measures prior to the initiation of any other development activity where required as a condition of the permit.
 - (3) *Final inspection and notice of completion.* A final inspection and notice of completion shall occur when all development activities permitted for the site have been completed. No certificate of occupancy shall be issued, nor any building or premises occupied, unless and

until the administrator has determined after final inspection that all work, including land clearing, regulated tree or regulated vegetation removal, tree protection and tree replacement, has been done in accordance with the approved permit and plan.

- (4) *Maintenance inspections.* The administrator shall have the authority [during the required three \(3\) year maintenance period](#) to conduct on-site maintenance inspections subsequent to final inspection and notice of completion, and to require correction of all deficiencies and violations in accordance with this chapter.
- (b) *Site preparation.* Prior to requesting initial and/or protective barricade inspection, the applicant shall prepare the site with proper staking and taping as necessary to allow the administrator to locate and identify the lot or parcel to be inspected; to determine the building site; to locate the proposed buildings or other proposed structures or improvements that will disturb vegetation, and to ensure clear understanding between the property owner, contractor, administrator and other inspectors that may be involved.
 - (1) The address or legal description of the property shall be displayed in a conspicuous manner.
 - (2) The property corners shall be marked according to survey with wooden stakes. Each stake shall be flagged with surveyor's tape or with bright colored paint. Any property crossed by the coastal construction control line shall have that line marked on the ground with conspicuous wooden stakes and surveyor's tape or durable waterproof string and shall be clearly labeled "CCCL".
 - (3) All trees to be preserved during development activities shall be barricaded according to a tree protection plan consistent with the guidelines in the Tree Protection Guide for Builders and Developers, published by the Florida Division of Forestry and/or any other reasonable requirements deemed appropriate by the administrator to implement this part.
 - (4) All trees proposed for removal shall be identified with red or orange surveyor's tape or paint.
 - (5) All trees proposed for protection as mitigation for removed trees shall be identified with blue or green surveyor's tape or paint.

Sec. 23-25. - Appeals.

- (a) *Procedures to file appeals.* Appeals and written notices objecting to decisions regarding tree permits issued under authority of this chapter shall be made in accordance with the provisions of section 23-52(g) hereof.
- (b) *Stay of work.* Any appeal to the [Community Development Board or City Commission](#) filed pursuant to section 23-52(g) shall stay all work on the premises and all proceedings in furtherance of the action appealed, unless the appropriate administrative official certifies that a stay would cause imminent peril to life or property.

Sec. 23-26. - Fees.

- (a) *Application fees.* The city commission hereby establishes the following fees related to the administrative costs of carrying out the requirements of this chapter. These fees shall be payable to the city ~~at any time an application is submitted for approval~~ [upon submittal of an application](#), amendment, or extension of a permit required by this chapter, [or for each required reinspection](#), or when a final action or decision by the administrator is appealed. Applications for tree and vegetation removal related requests shall not be considered as complete applications until such time as required fees have been paid in full.
 - (1) *Tree and vegetation removal permit application.* The tree and vegetation removal permit application fee shall cover the processing and review of the application as well as one (1) initial inspection, one (1) protective barricade inspection, one (1) final inspection and one (1) maintenance inspection per year. Any additional inspections required due to inadequate site preparation or reports of violation of the provisions of this chapter will be charged a reinspection fee as provided below:
 - a. Single- or two-family residential uses (per lot) \$ 125.00
 - b. Single removal of legacy tree 25.00
 - c. Multifamily residential uses 250.00
 - d. Commercial or industrial uses 250.00
 - e. Institutional and any other uses 250.00

- (2) Minor amendments 50.00
- (3) Extensions 50.00
- (4) Appeals 125.00
- (b) *Reinspection fees.* 50.00
- (c) *Research or extensive time fees (per hour).* 50.00

Sec. 23-27. Variances.

A variance may be sought in accordance with this section. Applications for a variance may be obtained from the community development department.

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

- (1) A legal description of the property for which the variance is requested.
- (2) A reasonable statement describing the reasons for the variance.
- (3) The signature of the owner, or the signature of the owner's authorized agent. Written authorization by the owner for the agent to act on the behalf of the property owner shall be provided with the application.

(b) *Public hearings.* Upon receipt of a complete and proper application, the community development director shall schedule a public hearing with the Environmental Stewardship Committee Community Development Board (CDB). The Environmental Stewardship Committee shall make a recommendation to The Community Development Board shall vote based on the application, comments from staff, the applicant and the public, as well as the grounds for approval described in subsection (c) below. The public hearing shall be noticed in accordance with notice provisions for variances found in Chapter 24. At the public hearing, the applicant may appear in person or may be represented by an authorized agent. Applications for a variance shall be considered on a case-by-case basis, and shall be approved only upon findings of fact that the application is consistent with the definition of a variance and consistent with the provisions of this section.

(c) *Grounds for approval of a variance.* A variance may be granted, at the discretion of the community development board, for the following reasons:

- (1) Existing topographic elevation changes that would result in the likelihood that preserved or planted materials would not survive.
- (2) Existing areas of buried solid waste at a depth that would affect viability of preserved or planted materials.
- (3) Existing electrical lines or utility easements that prevent or restrict the preservation or planting of landscape materials.
- (4) Barrier island or dune ecosystem planting conditions that cannot support certain hardwood species.
- (5) Redevelopment sites where existing landscaping does not meet current standards and where existing site conditions such as, but not limited to, impervious surfaces, access locations, or building locations, prevent the site from meeting the current requirements.
- (6) Sites where type or distribution of existing canopy or other protected trees are such that mitigation requirements would prohibit site development or conflict with required development standards, such as stormwater or roadway designs.

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

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

Commented [BEB7]: Brenna: If variance is added, the ESC will not have regulatory authority making them subject to financial disclosure requests

Commented [BEB8]: Brenna: Should track new Chapter 24 language
Response: It does

Commented [BEB9]: Brenna: "If it finds that one or more of the following conditions exist.
Response: More likelihood of variances being approved.

Commented [BEB10]: Need to review with ESC

- (f) Nearby nonconformity. Nonconforming characteristics shall not be grounds for approval of a variance.
- (g) Waiting period for re-submittal. If an application for a variance is denied by the community development board, no further action on another application for substantially the same request on the same property shall be accepted for three hundred sixty-five (365) days from the date of denial.
- (h) Time period to implement variance. Unless otherwise stipulated by the community development board, the work to be performed pursuant to a variance shall begin within twelve (12) months from the date of approval of the variance. The community development director, upon finding of good cause, may authorize a one-time extension not to exceed an additional twelve (12) months, beyond which time the variance shall become null and void.
- (i) Transferability. A variance, which involves the development of land, shall be transferable and shall run with the title to the property unless otherwise stipulated by the community development board.

Secs. 23-2728—23-29. - Reserved.

DIVISION 4. - GENERAL PROVISIONS

Sec. 23-30. - Minimum tree requirements.

These minimum tree requirements shall apply to all property within the city that is subject to the provisions of this chapter. Credit will be given for trees on the Atlantic Beach Recommended Species List, but none will be given for trees on the Atlantic Beach Prohibited Species List. Section 24-177 of this Municipal Code also provides additional landscaping requirements for nonresidential uses.

- (1) *Residential uses.* For each parcel upon which a single-family, two-family or multifamily dwelling unit, or associated residential accessory unit is proposed, or where the primary activity is residential in nature:
 - One (1) minimum four-inch caliper tree shall be planted and/or preserved for every two thousand five hundred (2,500) square feet of development parcel area or portion thereof, excluding therefrom preserve areas and water bodies. Of the minimum required trees, at least one (1) tree shall be provided-planted or preserved within the required front yard.
- (2) *Commercial uses.* For each parcel upon which a commercial structure or associated accessory use is proposed, or where the primary activity is commercial in nature:
 - One (1) minimum four-inch caliper tree shall be planted and/or preserved for every eight thousand (8,000) square feet of parcel area or portion thereof, excluding therefrom preserve areas and water bodies.
- (3) *Industrial uses.* For each parcel upon which an industrial structure or associated accessory use is proposed, or where the primary activity is industrial in nature:
 - One (1) minimum four-inch caliper tree shall be planted and/or preserved for every ten thousand (10,000) square feet of parcel area or portion thereof, excluding therefrom preserve areas and water bodies.
- (4) *Public/semi-public (governmental or institutional) uses.* For each parcel upon which a government structure or associated accessory use is proposed, or where the primary activity is public/semi-public in nature:
 - One (1) minimum four-inch caliper tree shall be planted and/or preserved for every ten thousand (10,000) square feet of parcel area or portion thereof, excluding therefrom preserve areas and water bodies.

Sec. 23-31. General prohibitions. Except as provided in Section 23-21(2), the following general prohibitions shall be applicable

- (a) *Excessive or improper pruning.* It shall be unlawful to engage in excessive or improper pruning techniques on trees intended for shade purposes where such trees are required pursuant to an approved tree protection plan. Trees intended for shade purposes shall be allowed to reach their mature canopy spread. This limitation shall not be construed to prohibit the trimming or pruning of

trees that create a clear risk of danger to persons or property during flood, high wind or hurricane events.

- (b) *Pruning or removal of city trees.* It shall be unlawful to trim, prune, or remove any tree which is within the city's rights-of-way or upon any other city property without the permission of the city as evidenced by the appropriate permit.
- (c) *Tree spiking.* It shall be unlawful to introduce any type of poison or reactive material to a tree for the purpose of causing the tree to die or become diseased.
- (d) *Attachments.* It shall be unlawful to attach anything, including signs, permits, nails or spikes that may be injurious or cause damage, to a tree having a diameter of three (3) or more inches ~~caliper~~DBH. Exceptions are protective wires, braces or other devices used to support a tree.
- (e) ~~Unauthorized clearing of vacant undeveloped lots. It shall be unlawful to clear any vacant undeveloped lot, parcel, or lands such that the land is substantially denuded of regulated trees and regulated vegetation in any by fifty (50) percent or more of all trees or caliper inches, whichever comes first manner or for any purpose unless a proper tree removal permit has been issued. The extent to which removal constitutes substantial denuding shall be determined by the administrator based upon the number, type and condition of existing on-site regulated trees and regulated vegetation in comparison to that proposed to be removed. If clearing is authorized, the minimum requirements of section 23-30 shall be met.~~
- (f) *Unauthorized clearing of developed lots.* It shall be unlawful to clear the trees from any developed lot such that the minimum requirements of section 23-30 are not maintained.

Commented [BEB11]: Diameter

Commented [BEB12]: Remove. No longer needed since we added the 50% threshold.

Commented [AA13]: Removed bc the 10K threshold was deleted. No longer necessary.

Commented [BEB14]: This section depends on regulated tree definition. If changed, this section will need to be reworked.

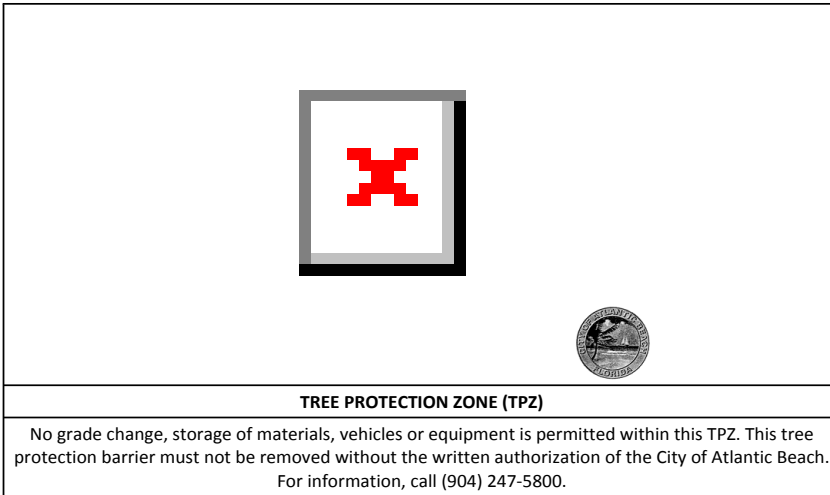
Sec. 23-32. - Tree protection during development and construction.

~~It is the intent of this Section that on all properties where development is occurring, regardless of whether or not a tree removal permit is required, the owner shall ensure that the measures described in this Section are taken to protect all trees that may be impacted by the development activities.~~

- (a) *Restrictions during construction.*
 - (1) *Placement of materials, machinery, or temporary soils.* It shall be unlawful for any person(s) to cause or allow the storage of construction materials, the use of heavy equipment or machinery, or the temporary storage of soil deposits within the tree protection zone of any tree or group of trees to be ~~retained~~preserved.
 - (2) *Disposal of waste materials.* It shall be unlawful for any person(s) to cause or allow the disposal of waste materials such as paint, oil, solvents, asphalt, concrete, mortar or any other material harmful to the life of a tree within the tree protection zone of any tree or groups of trees, or where planting beds are to be situated.
- (b) *Burden of tree protection on property owner.* The property owner(s) and their agent(s) shall ensure that any tree shown on the vegetation inventory for which a tree removal permit has not been obtained is to be protected. The property owner shall guarantee survival of ~~retained preserved~~trees, ~~relocated~~—and replacement trees for three (3) years from the date the city accepts the trees and landscaping as complete, unless a greater time period is required by a development order. If a ~~retained-preserved, relocated~~ or replacement tree dies during that time period, the property owner shall replace the tree in accordance with a remedial action as required by this chapter.
- (c) *Protective barriers and signage required.* Protective barriers and signage shall be installed around every tree or group of trees to be preserved prior to commencement of construction, in compliance with the guidelines in the Tree Protection Guide for Builders and Developers, published by the Florida Division of Forestry and/or any other reasonable requirements deemed appropriate by the administrator to implement this part.
 - (1) Temporary protective barriers shall be placed at least six (6) feet from the base of any tree, and shall encompass at least fifty (50) percent of the area under the dripline of any tree or trees to be preserved or retained for mitigation credit, unless otherwise approved by the administrator.
 - (2) Temporary protective barriers shall be at least three (3) feet high, and shall consist of either a wood fence with two-by-four posts placed a maximum of eight (8) feet apart with a two-by-four minimum top rail, or a mesh fence, or other similar barrier which will limit access to the protected area, unless otherwise approved by the administrator.

- (3) Waterproof, rigid sign(s) shall be affixed to each individual barricade, such that there is one (1) sign every fifteen (15) feet along the length of the barricade. The signs shall contain the following words, and will be made available by the city at the time of permit issuance:

FIGURE 1. TREE PROTECTION ZONE SIGNAGE



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

Sec. 23-33. - Mitigation to be assessed.

- (a) *Mitigation required.* Unless mitigation in the form of payment into the tree conservation trust fund has been approved in accordance with section 23-37, mitigation in the form of tree replacement, relocation or preservation shall be required to offset any impacts resulting from the removal of regulated trees as a condition of the tree or vegetation removal permit. Replacement or relocation shall be the preferred methods of mitigation.
- (b) *Mitigation assessment.* In general, mitigation shall be assessed according to the ratios given in the following table, such that the number of inches required to be replaced, relocated or preserved (first number) are proportional to the number the inches removed (second number):

TABLE 1. STANDARD MITIGATION ASSESSMENT

CLASSIFICATION OF PROPERTY	CLASSIFICATION OF REGULATED TREE	
	<u>Protected-Regulated</u>	Heritage
Private parcels	1:2	1:1
Public parcels	1:1	2:1
Public rights-of-way, <u>easements</u> , etc.	1:1	3:1

Environmentally sensitive areas	2:1	3:1
Historic corridor	2:1	3:1

- (c) *General conditions.* Mitigation shall be in the form of preservation of existing trees, relocation of existing trees ~~that would otherwise be removed~~, or replacement with new trees, ~~or payment into the Tree Conservation Trust Fund as authorized by this chapter~~ and shall occur within thirty (30) days, or prior to issuance of a certificate of occupancy or other final approval ~~if in association with a development permit, whichever time is shorter, unless a greater period is provided for good cause by the permit.~~ The applicant assumes all duties and costs associated with mitigation.
- (d) *Tree preservation.* Existing onsite trees that are three (3) inches DBH or greater and which are neither ~~protected-regulated nor transplanted-relocated~~ may be utilized as credit towards the assessed mitigation, subject to the other conditions stated in this section, if preserved onsite.
- (e) *Tree relocation.* Existing trees onsite that are three (3) inches DBH or greater ~~and that would otherwise be removed from the site because of development that are being relocated~~ may be utilized as credit towards the assessed mitigation, subject to the other conditions stated in this section, if relocated onsite.
- (f) *Tree replacement.*
 - (1) *Replacement size.* New replacement trees shall be the same quality of "Florida Number One", as defined in the most current edition of the Grades and Standards for Nursery Plants, published by the Florida Department of Agriculture and Consumer Services, Division of Plant Industry.
 - a. Oaks shall have a minimum four-inch caliper and twelve-foot height at time of installation.
 - b. All other new replacement trees shall have a minimum two-inch caliper and ten-foot height at time of installation.
 - c. Palms shall have a minimum clear trunk height of eight (8) feet at time of installation.
 - d. New replacement shade trees shall be of a species typically yielding an average mature crown spread of no less than thirty (30) feet in Northeast Florida and shall be chosen from the Atlantic Beach Recommended Species List, ~~maintained and published by the city.~~ Upon approval of the administrator, alternate species not appearing on the recommended list may be utilized, but in no case shall trees from the Atlantic Beach Prohibited Species List, ~~also maintained and published by the city,~~ be utilized for mitigation credit.
 - e. In the event that a property cannot reasonably accommodate required mitigation on site, the property owner can get replacement credit for planting trees on an immediately adjacent neighbor's property. ~~For vacant lots only, the property owner can get replacement credit for planting trees on any private property within a quarter (1/4) mile.~~ This shall only be done as an alternative to payment into the tree fund when it can be proven that a site cannot fit required replacement plantings. A signed letter from the ~~neighbor-property owner accepting off-site mitigation plantings~~ shall be attached with the tree permit application.
 - f. Atlantic Beach Recommended Species List. Replacement trees shall [be] selected from the following list. This list was created based on hardiness, disease and pest resistance, availability, and size variance. No mitigation credit will be approved for trees that are not on this list, unless approved by the administrator.

Commented [BEB15]: Legacy Tree dilemma. All trees besides legacy tree being removed would count towards preservation.

CITY OF ATLANTIC BEACH RECOMMENDED TREE LIST
SHADE TREES

Common Name	Botanical Name
Ash, Green	Fraxinus pennsylvanica
Ash, Water	Fraxinus caroliniana
Bay, Loblolly	Gordonia lasianthus

Cedar, Southern Red	Juniperus silicicola
Cypress, Bald	Taxodium distichum
Cypress, Pond	Taxodium ascendens
Elm, American	Ulmus americana
Elm, Florida	Ulmus american floridana
Elm, Lacebark	Ulmus parvifolia
Hickory, Mockernut	Carya Tomentosa
Hickory, Pecan	Carya illinoensis
Hickory, Pignut	Carya glabra
Hickory, Water	Carya aquatica
Loquat, Japanese Plum	Eriobotrya japonica
Magnolia, Southern	Magnolia grandiflora
Magnolia, Sweetbay	Magnolia virginiana
Maple, Florida	Acer barbatum
Maple, Red	Acer rubrum
Oak, Live	Quercus virginiana
Oak, Shumard Red	Quercus shumardii
Oak, Swamp Chesnut	Quercus michauxii
Pine, Loblolly	Pinus taeda
Pine, Long-leaf	Pinus palustris
Pine, Slash	Pinus elliottii
Sugarberry	Celtis laevigata
Sweetgum	Liquidambar styraciflua
Sycamore	Platanus occidentalis
Tupelo	Nyssa sylvatica

PALM TREES

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

UNDERSTORY OR ORNAMENTAL TREES

<i>Common Name</i>	<i>Botanical Name</i>
Cedar, Red	Juniperus virginiana
Crape Myrtle	Lagerstroemia indica
Elm, Winged	Ulmus alata
Holly, American	Ilex opaca
Holly, Dahoon	Ilex cassine
Holly, East Palatka	Ilex attenuata
Holly, Yaupon	Ilex vomitoria
Oak, Myrtle	Quercus myrtifolia
Oak, Sand Live	Quercus geminata
Oleander	Nerium oleander
Podocarpus, Yew	Podocarpus macrophyllus
Privet, Glossy	Ligustrum lucidum
Privet, Japanese	Ligustrum japonicum
Redbud	Cercis canadensis
Wax Myrtle	Myrica cerifera

(2) *Selection criteria.*

- a. ~~All oaks removed pursuant to a permit shall be mitigated with the preservation, relocation, or planting of oaks, unless payment is made to the Tree Conservation Trust Fund as allowed in Section 23-37. Replacement credit for oaks shall be limited to the species listed on the Atlantic Beach Recommended Species List.~~ Upon approval of the administrator, hardwood species yielding similar canopy may be used to mitigate removed oaks.
- b. New palms may be used as replacement trees when replacing species other than palms, ~~except oaks and legacy trees.~~ Replacement credit for palms, ~~when replacing species other than palms,~~ shall be limited to forty (40) inches or fifty (50) percent of required mitigation, whichever is lesser. Replacement credit for palms shall be limited to the species listed on the Atlantic Beach Recommended Species List. Upon approval of the administrator, a cluster of three (3) palms, subject to the other conditions of this section, may be used to meet the requirements of a single shade tree.
- c. When a legacy tree ~~other than oak~~ is removed, credit shall only be given for the ~~preservation, relocation, or~~ planting of a species that is on the legacy tree list. This shall not be limited to the exact same species, nor shall the new tree have to meet the size requirements of an established legacy tree. When a legacy tree is removed, at least twenty-five (25) percent of mitigation shall be provided on site in the form of replacement. Incentive credit shall be granted for the ~~use of legacy trees~~ planting of a species that is on the legacy tree list when replacing ~~protected-regulated~~ trees that are not on the legacy tree ~~lost~~ list. The incentive credit is equal to two (2) times the normal replacement credit. The following species are legacy trees:
 1. Bald Cypress (Taxodium distichum) twenty (20) inches in diameter or greater.
 2. Cedar (Juniperus silicicola) (Southern Red Cedar), J. virginiana (Eastern Red Cedar) twenty (20) inches in diameter or greater.
 3. Elm (Ulmus alata) (Winged Elm), Ulmus American floridana (Florida Elm), twenty (20) inches in diameter or greater.
 4. Oak (Quercus virginiana) (Live Oak) twenty (20) inches in diameter or greater ~~and (Quercus geminata) (Sand Live Oak) eight (8) inches in diameter or greater.~~

5. Hickory (*Carya illinoensis*) (Pecan), *C. tomentosa* (Mockernut), *C. glabra* (Pignut Hickory) twenty (20) inches in diameter or greater.
6. Loblolly bay (*Gordania lasianthus*) twenty (20) inches in diameter or greater.
7. Magnolia (*Magnolia grandiflora*) (Southern Magnolia) *Magnolia virginiana* (Sweetbay Magnolia) twenty (20) inches in diameter or greater.
8. Maples (*Acer rubrum* (Red Maple), *Acer barbatum* (Florida Maple) twenty (20) inches in diameter or greater.
9. Tupelo (*Nyssa sylvatica*) twenty (20) inches in diameter or greater.

(3) *Placement criteria.*

- a. *Avoidance of underground utilities.* No trees except those with a normal mature height of less than thirty (30) feet may be planted within five (5) linear feet of the centerline of any utility easement.
- b. *Avoidance of aboveground utilities and public facilities.* No trees may be planted closer to any curbs, curb lines, sidewalks or aboveground utilities than the following, except for plans demonstrating no conflict with existing aboveground utilities or public facilities, and approved by the administrator:
 1. Small trees or palms with normal mature height of fifteen (15) to thirty (30) feet shall have a minimum setback of three (3) feet.
 2. Medium trees or palms with normal mature height of thirty (30) to fifty (50) feet shall have a minimum setback of six (6) feet.
 3. Large trees with normal mature height of fifty (50) feet or more shall have a minimum setback of ten (10) feet.
- c. *Spacing.* The following spacing requirements shall serve as general guidelines for the optimal growth and viability of trees, though trees may be planted closer together upon approval of the administrator:
 1. Small trees or palms with normal mature height of fifteen (15) to thirty (30) feet shall be spaced at least ten (10) feet.
 2. Medium trees or palms with normal mature height of thirty (30) to fifty (50) feet shall be spaced at least twenty (20) feet.
 3. Large trees with normal mature height of fifty (50) feet or more shall be spaced at least thirty (30) feet.
 4. Spacing of two (2) or more trees of differing sizes shall be based upon the spacing requirements of the largest tree.

Sec. 23-34. - Maintenance and monitoring requirements.

The applicant shall be responsible for maintaining the health of any ~~replacement or relocation~~ preserved, relocated or replaced trees for three (3) years from ~~planting the date of the approved final inspection~~ approving the work.

- (1) *Determination of success.* The applicant shall determine the condition of each tree, three (3) years after the tree was relocated or planted. This determination shall be submitted to the city for approval within thirty (30) days of being made.

Should any tree die or be in a state of decline within three (3) years of being planted or relocated, the applicant shall be required to replace the tree within sixty (60) days of that determination. The three-year monitoring and approval period shall begin anew whenever a tree is replaced. If that replacement tree is found not to be viable at the end of the second monitoring period, the applicant may pay the appropriate amount into the tree fund in lieu of planting a third replacement tree. If the applicant fails to replace the tree or to pay the appropriate amount into the tree fund within sixty (60) days, the applicant shall be in violation of this chapter.

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

Commented [BEB16]: Brenna: What if final inspection?
Response: Inspection after trees are planted

Sec. 23-35. - Elimination of undesirable species.

- (a) The natural vegetative communities existing within the city shall be protected by the control and elimination of non-native invasive species. To that end, the following guidelines shall apply:
- (1) Planting of species on the Atlantic Beach Prohibited Species List shall not be accepted for mitigation credit.
 - (2) Removal of nonnative invasive species from nonresidential properties (excluding jurisdictional wetlands), shall be completed, whenever practicable, as a requirement for approval of any development permit issued by the city or the issuance of a certificate of occupancy if applicable.
 - (3) Procedures for the control and elimination of non-native invasive species shall in no way promote the proliferation of the species through the dispersal of seed or other means.
 - (4) Procedures for the control and elimination of non-native invasive species shall in no way harm or cause the decline of desirable species that are to be preserved, planted or relocated.
- (b) Atlantic Beach Prohibited Species List. The following species or sub-species of trees are not ~~protected-regulated~~ trees under this chapter, and are exempt from mitigation. The trees on this list shall not be accepted for ~~replacement-or-relocation~~[preservation, relocation or replacement](#) credit.

Australian pine	<i>casuarina cunninghamiana</i>
Australian pine thicket	<i>casuarina glauca</i>
Bischofia	<i>bischofia javanica</i>
Brazilian pepper	<i>schinus terebinthifolius</i>
Camphor tree	<i>cinnamomum camphora</i>
Carolina laurelcherry	<i>prunus caroliniana</i>
Carrotwood	<i>cupaniopsis anacardioides</i>
Castor bean	<i>ricinus communis</i>
Catclaw mimosa	<i>mimosa pigra</i>
Chinaberry tree	<i>melia azedarach</i>
Chinese tallow	<i>sapium sebiferum</i>
Chinese wisteria	<i>wisteria sinensis</i>
Climbing cassia	<i>senna pendula</i>
Earleaf acacia	<i>acacia auriculiformis</i>
Golden Raintree	<i>koelreuteria paniculata</i>
Guava	<i>psidium guayava</i>
Jambolan	<i>syzygium cimini</i>
Laurel fig	<i>ficus microcarpa</i>
Lead tree	<i>leucanea leucocephala</i>
Melaleuca tree	<i>melaleuca quinquenervia</i>
Mimosa tree	<i>albizia julibrissin</i>
Orchid tree	<i>bauhinia variegata</i>
Schefflera	<i>schefflera actinophylla</i>
Seaside mahoe	<i>thespesia populnea</i>

Shoebuttan ardesia	<i>ardisia elliptica</i>
Strawberry guava	<i>psidium cattleianum</i>
Woman's tongue	<i>albizia lebbeck</i>

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

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

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

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

- (1) ~~For single- and two-family residential uses.~~ If an applicant, at the time of application, demonstrates a successful plan to accomplish at least fifty (50) percent of the required mitigation onsite, the administrator shall approve the application and issue a permit in accordance with section 23-23. The remaining balance of the required mitigation shall be payable to the tree fund ~~within seven (7) days of such determination prior to permit issuance, unless the Administrator allows for a longer time period.~~
- (2) ~~For commercial, industrial and all other uses.~~ Applications for tree or vegetation removal permits for all uses and development, other than single- and two-family residential uses, shall replace or relocate required mitigation onsite, except in cases where the administrator finds, based upon the above stated conditions, that onsite mitigation is not possible. Upon approval of a mitigation plan by the administrator, a permit shall be issued by the administrator, and the remaining balance of the required mitigation shall be payable to the tree fund ~~within seven (7) days of such determination prior to permit issuance.~~
- (3) Where payment in lieu of ~~replacement or relocation~~ preservation, relocation or replacement is approved, as set forth in preceding subsections (1) or (2), the applicant shall pay the equivalent value of the portion not ~~planted or relocated~~ mitigated, to the city's tree fund. The approved mitigation payment shall be payable to the tree conservation trust fund ~~within seven (7) calendar days of the approved mitigation order prior to permit issuance. Mitigation payments not received within the prescribed time period shall result in the filing of a lien on the subject property.~~

Commented [BB17]: Propose adding.

Secs. 23-38—23-39. - Reserved.

DIVISION 5. - AREAS OF SPECIAL CONCERN

Sec. 23-40. - Applicability.

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

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

- (a) *Designation.* The city commission may by resolution designate historic corridors or individual heritage trees. In doing so, the city commission shall specifically identify those streets, or portions thereof, or trees, which shall be so designated.
- (b) *Criteria.* In considering whether roadways or portions thereof shall be designated as historic corridors, the city commission may consider the following criteria:
 - (1) The presence of historically significant tree coverage or landscaping, as individual plants or in groupings.
 - (2) The presence of culturally significant tree coverage or landscaping.
 - (3) The presence of significant architectural structures with associated tree coverage or landscaping.
- (c) *Documentation.* The administrator shall maintain a record of all historic corridors so designated and their location shall be reflected on city maps as such.
- (d) *Mitigation.* Mitigation required for the removal of designated heritage trees and trees within designated historic corridors, shall be at a higher rate than removal of nondesignated tree(s), as specified in section 23-33, as an extra measure to encourage protection of such trees.

Secs. 23-42—23-45. - Reserved.

DIVISION 6. - VIOLATIONS, ENFORCEMENT AND PENALTIES

Sec 23-46. - Violations.

Violations, including failure to make proper application for a tree or vegetation removal permit as required by these provisions, or failure to implement any requirements or conditions of a tree or vegetation removal permit, shall be deemed a violation of this chapter, and shall be subject to code enforcement procedures as set forth within chapter 2, article V, division 2 of this Municipal Code of Ordinances and any other remedies available under applicable law.

- (1) *Development activity.* It shall be a violation of this chapter for any person(s) to engage in development or other activity, which has the potential to damage, destroy or remove, or cause the destruction or removal of any tree or vegetation as regulated herein, without complying with all applicable provisions of this chapter.
- (2) *Compliance with approved permit.* It shall be a violation of this chapter for any person who has obtained a permit from the city pursuant to the requirements of this chapter to fail to comply with the requirements of the approved permit and any conditions attached thereto.
- (3) *Compliance with general conditions of permit.* The following minimum conditions shall apply to every permit issued pursuant to this chapter, and violation of or failure to comply with any such condition(s) shall be a violation of this chapter:
 - a. *Permit and plans onsite.* Approved permits and plans shall be available onsite at all times during development activity.
 - b. *Responsible individual onsite.* Whenever site work is ongoing, there shall be an individual at the site who shall be responsible for the ongoing work and who shall have the familiarity with the project to ensure work is proceeding according to approved plans. This provision is not intended to require that a single individual remain onsite during all operations, only that at all times there shall be a designated person in responsible charge.
- (4) *Maintenance requirements.* It shall be a violation of this chapter for any person(s) who is engaged in development activity on property located within the city or in accordance with a permit issued by the city pursuant to this chapter, or who has obtained title to property upon which such activities have taken place, to fail to comply with the minimum standards and maintenance requirements set forth herein.

Sec. 23-47. - Notice of violation.

Whenever the administrator determines that a violation of this chapter has occurred, the administrator shall immediately issue written notice to the person(s) in violation, identifying the nature and location of the violation and specifying that remedial action is necessary to bring the violation into

compliance. The person(s) in violation shall immediately, conditions permitting, commence remedial action and shall have seven (7) calendar days after the receipt of notice, or such longer time as may be specified in the notice, to complete the remedial actions required to bring the violation into compliance with this chapter.

Sec. 23-48. - Stop work order.

- (a) *Authority to stop work.* The city manager or designee of the city manager shall have the authority to immediately issue a stop work order in any of the following circumstances:
- (1) Whenever land is being cleared without an approved permit or in a manner inconsistent with the approved permit;
 - (2) Upon the failure of the permittee, or failure of the property owner if no permit exists, to take immediate corrective action when there is an apparent danger to life or property;
 - (3) Whenever ongoing noncompliant work is not immediately and permanently stopped upon receipt of a written or oral notice of violation;
 - (4) Whenever protection measures have not been implemented or maintained and danger to regulated trees or regulated vegetation exists or appears imminent;
 - (5) Whenever remedial work required by notice of violation pursuant to subsection (a) of this section is not completed in the time period specified; or
 - (6) Upon failure to post or have the approved permit and plans available onsite.
- (b) *Content and scope of stop work order.* The stop work order shall specify the circumstances that have resulted in issuance of the order. It shall also direct that all work be stopped other than such remedial work as is deemed necessary to bring the violation into compliance, or it may specify the cessation of specific work by functional nature, such as land clearing, regulated tree or regulated vegetation removal, grading, roadway construction, building erection or utility construction. The order may apply to the entire project or to geographical portions of the project that may be individually specified.
- (c) *Failure to comply after notice of violation and stop work order.* If the person(s) in violation fails to complete the required remedial action within the prescribed time, or continues any development activity in violation of a stop work order, the administrator may refer such matter to the code enforcement board or may initiate any other enforcement action or remedies as authorized by law.

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

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

Sec. 23-50. - Code enforcement action.

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

Sec. 23-51. - Penalties.

- (a) *General provisions.* Any person(s) violating a provision of this chapter shall be punishable according to the law or in accordance with the findings of the duly appointed ~~Special Magistrate code enforcement board~~.
- (1) Violations of this chapter are considered irreparable and irreversible in nature.
 - (2) Each day any violation continues shall constitute a separate offense.

- (3) Each regulated tree removed from a site in violation of these regulations shall constitute a separate offense.
- (4) Each acre or fraction thereof, of land cleared in violation of these regulations shall constitute a separate offense.
- (5) Person(s) charged with violations of this chapter may include:
 - a. The owner, agent, lessor, lessee, contractor or any other person(s) using the land, building or premises where such violation exists.
 - b. Any person(s) who maintains any land, building or premises upon which a violation exists.
 - c. Any person(s) who knowingly commits, takes part, or assists in such violation.
- (b) *Building permits.* No building permit shall be issued for a site ~~unless and until a required tree or vegetation removal permit has been issued, or~~ while any violation of this chapter exists on the subject site.
- (c) *Injunction.* Any affected person(s) may seek an injunction against any violation of the provisions of this chapter and recover from the violator such damages as he or she may suffer including, but not limited to, damage to property as a result of development or failure to maintain, in violation of the terms of this chapter.
- (d) *Sanctions for failure to obtain a permit.*
 - (1) Regulated trees or regulated vegetation removed in violation of this chapter shall require an after-the-fact permit, the fee for which shall be two (2) times the normal established application fee specified in section 23-26. In addition, as a condition of the permit, the applicant shall immediately complete all remedial work as necessary to stabilize the site and mitigate all damage to the site and adjacent properties.
 - (2) Regulated trees removed in violation of this chapter shall be assessed at two (2) times the normal established rate of mitigation specified in section 23-33.
 - (3) If a lot, parcel, site or portion thereof, has been cleared such that the administrator is unable to determine with reasonable certainty the number and size of regulated trees and/or regulated vegetation removed in violation of this chapter, analysis of aerial photography or other such accepted scientific methodology shall be used to make a determination as to the loss of canopy and/or land cover for the purpose of assessing mitigation. A civil fine of five dollars (\$5.00) per square foot of canopy or land cover lost shall be assessed by the administrator, and shall be payable to the tree fund within seven (7) days of such assessment. No further work or development shall proceed until the city is in receipt of any such assessed fine.
 - (4) Any person(s) exhibiting a documented history of chronic or repeated violations of this chapter shall, upon third offense, be reported to the Florida Department of Business and Professional Regulation, as well as any other authority governing licensing, registration or certification of individuals or businesses.

Sec. 23-52. - Environmental stewardship committee—Intent.

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

- (a) *Environmental stewardship committee purposes.* It shall be the purpose of the environmental stewardship committee:

- (1) To study and make recommendations to the city commission and city staff with respect to the city's:
 - a. Maritime forest;
 - b. Parks and open spaces;
 - c. Beautification of public and private spaces; and
 - d. Environmental stewardship.
- (2) To act as a motivating and coordinating body to encourage joint public and private participation in promoting these purposes.
- (b) *Environmental stewardship committee—Scope of activities.* The environmental stewardship committee shall provide guidance and support to the city commission and city manager and, upon request by the city commission or city manager, shall provide written recommendations, in the following areas:
 - (1) Maritime forest:
 - a. Clarifying and strengthening the city's processes and all tree and landscape related city codes and ordinances;
 - b. Monitoring the appropriate administration and enforcement of the city's ordinances;
 - c. Promoting transparency through online access to relevant information;
 - d. Developing and maintaining environmental education and outreach programs about the maritime forest and relevant codes;
 - e. Promoting appropriate planting and care of trees on private property to owners, developers, builders, and tree/landscape service contractors;
 - f. Developing and maintaining a long-term tree plan that includes an assessment of the tree canopy, projecting future needs, and developing a calendar and budget for tree planting in parks, public spaces and along streets and right-of-ways;
 - g. Promoting tree canopy advocacy including upholding the city's status as a bona fide "Tree City USA";
 - h. Developing a process for systematic, review of the city's enforcement of the existing tree codes, including the long-term health of trees planted for mitigation; and
 - i. Developing and maintaining a process for citizens to communicate possible violations to the city.
 - (2) Parks and open spaces:
 - a. Developing and maintaining a long-range plan to protect, improve and beautify park spaces;
 - b. Improving access to and amenities for parks including disability accommodations, bike paths, parking, signage and other user friendly features;
 - c. Expanding the city's inventory of parks and conservation land through acquisition or other means; and
 - d. Maintaining a web-based, publicly accessible inventory of parks including their history, archeological value, rules of use, deed restrictions and conservation easements.
 - (3) Beautification of public and private spaces:
 - a. Enhancing public spaces, including public rights-of-way, roadsides, city buildings, beach accesses and other publicly held properties with art, carefully maintained landscape design and plantings;
 - b. Incentivizing and advocating for beautification of private and commercial spaces;
 - c. Reducing the number and appearance of degraded or blighted properties; and
 - d. Developing a design theme/community branding for signage, bus shelters, lighting and other elements of the built environment.
 - (4) Environmental stewardship:
 - a. Utilizing best practices, including a science based approach, when making any decision about development and its impact on our environment;
 - b. Protecting the beach, dunes, marshlands and wetlands as critical defenses in hurricane, erosion and flooding conditions;
 - c. Communicating the dynamics of tidal drainage and floodplain with the goal of preserving the city's flood management system;
 - d. Reviewing the city's environmental codes and ensuring enforcement of rules including, but not limited to, dumping, septic tanks and commercial pollution; and

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

(c) *Membership, terms, appointments, geographic requirements, composition.*

- (1) *Membership.* The environmental stewardship committee shall be composed of eleven (11) members. A majority of the members of the committee shall constitute a quorum.
- (2) *Terms.* All members shall serve four-year terms, with the exception of inaugural committee members. Members shall not serve more than two (2) consecutive terms on the committee. Three-year terms of the inaugural committee members shall constitute a full term. In the event a vacancy occurs and three (3) years or more remain in the vacating member's term, then the remaining time shall constitute a full term.
- (3) *Appointments.* Except for the inaugural committee members, committee members shall be selected by the board member review committee and shall be confirmed by the commission. The commission shall select the inaugural committee members as follows:

Member Representation	Appointed By
At large	Mayor (3 years)
At large	Mayor (4 years)
At large	Mayor (3 years)
District 1308 resident	Seat 2 commissioner (3 years)
At large	Seat 2 commissioner (4 years)
District 1307 resident	Seat 3 commissioner (3 years)
At large	Seat 3 commissioner (4 years)
District 1306 resident	Seat 4 commissioner (3 years)
At large	Seat 4 commissioner (4 years)
District 1312 resident	Seat 5 commissioner (3 years)
At large	Seat 5 commissioner (4 years)

- (4) *Geographical requirements.* There shall be at least one (1) member representing each city district on the committee. Each committee member must be a full time resident of the city or own real property in the city. For the purpose of this section, full time residency shall be defined as the person's principal place of abode. Any member must immediately notify the city manager and chair in writing upon no longer meeting these membership qualifications.
- (5) *Composition.* To the extent possible, committee members should demonstrate at least one (1) of the following skills, experience, expertise, educational background or interests:
 - a. Knowledge of best practices in environmental management and sustainability;
 - b. Land development and building construction;
 - c. Urban planning and design;
 - d. Arboriculture and horticulture;
 - e. Landscape architecture;
 - f. Environmental policy;
 - g. Environmental and constitutional law;
 - h. Community engagement; and
 - i. Educational programming.

(d) *Organization.*

- (1) The committee shall meet on the second Wednesday of each month. Special meetings may be called by the chair, provided at least forty-eight (48) hours' notice is provided and that a majority of the members must agree to the date and time. At its first regularly scheduled meeting each January, the committee shall elect from among its members a chair, vice chair, and secretary who shall assume their positions immediately upon election.

- (2) The chair shall preside at all meetings of the committee. The vice chair shall preside if the chair is absent.
- (3) The committee shall be staffed at each meeting by a city staff member appointed by the city manager to act as the recording clerk. In addition, the city manager or his/her designee shall attend all committee meetings.
- (4) Roberts Rules of Order shall be followed at committee meetings. The committee may adopt, amend, and rescind procedural rules of the committee to aid in implementing the provisions of this section. All reports, studies, and recommendations made by the committee shall be approved by the committee before the same may be presented to the city commission or city manager on behalf of the committee.
- (5) The committee shall establish a tree subcommittee in accordance with subsection (f) below. The committee may establish such other subcommittees from among its membership as it deems necessary to perform its activities. Subcommittee shall report on their progress to the committee at such times as the committee shall require. All committee and subcommittee meetings shall be open to the public and are subject to Florida's Government in the Sunshine Laws.
- (6) The committee's recording clerk shall keep minutes of the proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the city clerk and shall become a public record.
- (e) *Removal of members.* A member's position on the committee shall be automatically vacated if that member has three (3) or more unexcused absences from committee meetings within a one-year period. The vacancy shall be promptly filled.
- (f) *Establishment of tree subcommittee, membership, terms.*
 - (1) There is hereby established a tree subcommittee of the environmental stewardship committee, referred to in this subsection as the subcommittee. The subcommittee shall systematically review tree permits submitted to the city for completeness and to determine compliance with the provisions of this chapter 23 as more particularly described in this subsection. The subcommittee shall consist of three (3) members and one (1) alternate member. The alternate shall serve in the case of the absence of any of the three (3) members. The members of the environmental stewardship committee may volunteer to serve on the subcommittee and shall be appointed to the subcommittee by the environmental stewardship committee. All of the members of the subcommittee shall be members of the environmental stewardship committee. The environmental stewardship committee shall appoint or remove the members of the subcommittee by a simple majority vote. Filling vacancies shall take place at the next regular scheduled meeting of the environmental stewardship committee after a seat on the subcommittee has become vacated. Members of the subcommittee may serve for as long as they serve on the environmental stewardship committee.
 - (2) Organization of tree subcommittee.
 - a. The environmental stewardship committee shall establish a regular meeting schedule of the tree subcommittee. Unless otherwise determined, the subcommittee's meetings shall meet on the same date as the environmental stewardship committee.
 - b. The administrator or designee shall attend all meetings of the subcommittee. A city staff member designated by the city manager shall act as clerk for the subcommittee. The clerk shall be responsible for the clerical administration of the subcommittee. The clerk shall also be responsible for the maintenance and preservation of all records of the subcommittee in coordination with the city clerk's office.
 - c. The subcommittee shall utilize the rules of the environmental stewardship committee. Robert's Rules of Order shall be followed to conduct meetings. All meetings shall be open to the public. The subcommittee shall keep minutes of the proceedings, recording the vote of each member upon each question or if absent or failing to vote, indicating such facts. It shall keep records of its examinations and other official actions, all of which shall be promptly filed with the city clerk's office and shall become public record. The subcommittee will operate in compliance with Florida's Government in the Sunshine Laws.

(g) *Systematic permit review and appeal process.* Notwithstanding any other permit review or appeal processes set forth in the Atlantic Beach Code of Ordinances, the following permit review and appeal procedures shall constitute the exclusive procedures regarding tree permits in the City of Atlantic Beach.

(1) *Initial review period.*

- a. The administrator shall upload all tree permit applications to the city's website within three (3) business days of being deemed sufficient in accordance with section 23-23 of this Code, and ready for site inspection in accordance with section 23-24. The initial site inspection by the administrator may occur no earlier than the fourth business day after the complete permit application has been uploaded to the city's website.
- b. The subcommittee may review any tree permit applications.
- c. Each member of the subcommittee may independently review any tree permit applications that include the removal of more than fifty (50) percent of the total inches of the diameter at breast height (DBH) of regulated trees on any property.
- d. Each member of the subcommittee may independently review any tree permit applications that include the removal of one (1) or more legacy tree(s) on any property.
- e. One (1) member of the subcommittee may accompany the administrator on the initial site inspection as an observer. The subcommittee member must make the request to attend the initial site inspection as an observer within three (3) business days of the permit being uploaded to the city's website. The subcommittee member shall not interact with the property owner or the property owner's agents during the site inspection and shall stay in the vicinity of the administrator during the inspection. The subcommittee member shall be provided twenty-four (24) hours' notice prior to the time of the site inspection. If multiple requests are made by subcommittee members to accompany the administrator on the initial site inspection, the administrator shall select the first subcommittee member who submits a request in writing.

(2) *Issuance, review and appeal procedures of a permit.*

- a. When the administrator's application review process and inspection have been completed, the administrator shall distribute a notice of intent to issue tree permit to the applicant and all members of the subcommittee, including the alternate member and upload the draft permit to the city's website. Within five (5) business days after the distribution of the notice of intent, the applicant, any member of the subcommittee or any "adversely affected party" as defined in section 24-17 may place a hold on the permit by providing written notice to the administrator requesting further review. This notice shall include the rationale to support the request for further review. If no notice is filed, the permit shall be effective after the expiration of the five-business-day notice period.
- b. Should a written notice be timely filed, within five (5) business days after a notice is filed with the administrator, the administrator shall place the matter on the agenda, with proper notice, of the next available regularly scheduled subcommittee meeting.
- c. The subcommittee shall review the draft permit for compliance with the requirements of this chapter 23 and shall, by majority vote, recommend that the administrator approve, approve with conditions or deny the application. The administrator shall issue or deny the permit within five (5) business days after the subcommittee meeting. The applicant or any member of the subcommittee or any "adversely affected party" who submitted written comments to the subcommittee prior to the meeting or made a presentation to the subcommittee during the meeting, may file a written notice objecting to the permit within five (5) business days from the date of permit issuance stating the alleged reasons the permit does not comply with the provision of this chapter 23. The permit issued by the administrator shall not be effective until this five-business-day notice period has expired.
- d. Should a written notice be timely filed, the draft permit shall be placed on the next available community development board agenda. The board's review shall be de novo. The board shall determine whether the draft permit complies with the provisions of this chapter 23. The board may issue, deny or modify the draft permit. All notice requirements for "variances" set forth in section 24-51(c)(2) shall apply to the hearing on said contested tree permit.

- e. The decision by the community development board shall be final unless the applicant or an "adversely affected party" who submitted written comments to the board prior to the board meeting or made a presentation to the board during the meeting files a written appeal of the community development board decision to the city commission within fifteen (15) days of the board's decision, with the city clerk, together with a five-hundred-dollar (\$500.00) filing fee. Where the community development board approves a tree permit, the subject tree permit shall not be effective until the fifteen-day appeal period has expired. Said written appeal must set forth the alleged reasons that the community development board's determination does not comply with the provisions of this chapter 23. The commission's review shall be de novo and the notice requirements for "variances" set forth in section 24-51(c)(2) shall apply. The commission may confirm, overturn or modify the community development board's action. The action of the commission shall constitute final action of the city. Where the commission approves a tree permit, the permit shall not be effective until any applicable judicial appeal period has expired.

Secs. 23-53—23-60. - Reserved.

Regulated trees on private property

Current definition:

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

- a. A DBH of six (6) inches or more on residentially zoned property that will be removed two (2) years prior to or two (2) years subsequent to construction valued at over ten thousand dollars (\$10,000.00);
- b. Trees defined as legacy trees by this chapter;
- c. A DBH of ten (10) inches or more, if zoned nonresidential.

Pros	Cons
Captures new construction and major projects	Hard for public to understand and follow. Also catches many by surprise especially if they recently bought the lot and are planning construction (i.e. add pool) only to find out trees were removed two years ago by previous owner.
Discourages clearing lots before building a new home	Creates possible loophole if owners or builders wait two years after clearing trees
	Hard to enforce (i.e. have to ask applicant if they are planning \$10k of construction within next two years; have to check aerials, if they are available, to see if anything was removed in the last two years; determining species of trees after they are removed; etc.)
	Results are often disproportionate. For example a homeowner who has recently installed a new A/C and fence now has to mitigate for palms and crape myrtles but their neighbor can remove large water oaks, sycamores, etc without having to mitigate or get a permit because they don't meet the \$10k criteria.
	Leaves many (possibly most) large hardwoods unprotected

Possible changes to consider:

- Make the criteria for regulated trees based on the size (diameter) of the tree (i.e. all 10" diameter trees are regulated)
- Make the \$10k criteria only applicable to exterior and site improvements (i.e. new homes, additions, new pools, driveways, etc.) so that it does not capture interior renovations, new A/C units, etc.

- Make the criteria based on a diameter, EXCEPT create a special criteria for new home construction that captures/protects more trees

Hilton Head and Winter Park FL = 9" dbh

Many larger hardwoods are unprotected – (non-live) oaks, sycamores, sweetgums; silver sugar maples; etc.

Will result in more tree permits and more regulated trees and more mitigation. Most trees right now are not protected.

Enforcement nightmare – in many cases determining species of trees is hard for staff especially after the fact permits. Also looking at permit history and relying on homeowners to be honest when they may not be sure what their plans are in two years.

Makes enforcement of vacant lots much easier. Right now clearing of vacant lots is allowed, 1551 Ocean almost did it.

Current code allows you to remove almost every tree off your developed lot if no recent construction.

Complicated for public to follow-leads to removal without permit. Many believe only legacy trees are protected.

Examples:

- 1607 Linkside Dr
- 515 Linkside Dr
- 700 Tiriton
- 128 #4 Seminole (Brian Major)

Preservation credit & Legacy Tree Preservation Credit

Current Rule: “Existing onsite trees that are three (3) inches DBH or greater and which are neither protected nor transplanted may be utilized as credit towards the assessed mitigation, subject to the other conditions stated in this section, if preserved onsite.”

- This results in trees 3-5” DBH receiving preservation credit, ALTHOUGH, this should also result in all trees 3”DBH and greater that are non-legacy trees receiving credit for legacy tree removal permits (no construction, just legacy tree removal) but this hasn’t been enforced this way.
- If \$10k rule is replaced with 10” DBH rule, all trees 3-9” DBH would then receive credit.

Possible Changes:

- Remove preservation credit all together
- Give preservation credit for the preservation of legacy trees on all properties
- Give preservation credit for the preservation of legacy trees for new construction only
- Cap preservation credit at a number or percentage

Other City Examples:

Preservation credit can be revoked if they do not protect their trees during construction (Gainesville)

Green Cove Springs: (1)Trees 12 to 18 inches: Live oaks, one-inch credit; all others, 50 percent-inch credit.(2)Trees 19 to 30 inches: Live oaks, 1.25-inch credit; all others, 75 percent-inch tree credit.(3)Trees over 30 inches: Live oaks, 1.5-inch credit; all others, 100 percent-inch credit

Orange Park:

(5) Existing tree credit:

(1) Allowable tree credits: The following credits for preserving existing trees shall be utilized. Each tree credit shall be allowed to replace one required tree:

DBH of Existing Trees	Number of Tree Credits
3 inches and above	1
6 inches and above	2
12 inches and above	3
18 inches and above	4
12-foot height palm	1/3
(3 palms = 1 tree credit)	

Winter Springs:

DBH of Preserved Tree	Reduction in Replacement Trees
4" up to but not including 9"	1 credit
9" up to but not including 12"	2 credits
12" up to but not including 16"	3 credits
16" up to but not including 24"	4 credits
Specimen and Historic Trees	0 credits

- Rockwall Texas: For each saved oak, pecan or elm tree(s) 25 inches DBH or greater the mitigation balance can be reduced on an inch-for-inch basis for up to 20 percent of the total mitigation balance (i.e. total mitigation balance × 20 percent = Total eligible tree preservation credit).
- Fort Worth Texas: Preservation of a significant or large tree will be credited to the required canopy cover one and one-half (1 Y:) times the actual canopy size.

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	Hard to enforce (i.e. have to ask applicant if they are planning \$10k of construction within next two years; have to check aerials, if they are available, to see if anything was removed in the last two years; determining species of trees after they are removed; etc.)
	Results are often disproportionate. For example a homeowner who has recently installed a new A/C and fence now has to mitigate for palms and crape myrtles but their neighbor can remove large water oaks, sycamores, etc without having to mitigate or get a permit because they don't meet the \$10k criteria.
	Leaves many (possibly most) large hardwoods unprotected

Possible changes to consider:

- Make the criteria for regulated trees based on the size (diameter) of the tree only (i.e. all trees 10" in diameter or larger are regulated)
- Make the \$10k criteria only applicable to exterior and site improvements (i.e. new homes, additions, new pools, driveways, etc.) so that it does not capture interior renovations, new A/C units, etc.
- Make the criteria based on a diameter, EXCEPT create a special criteria for new home construction that captures/protects more trees

1095 Tulip Street: removed 33" Live Oak and 23" Hickory

If two legacy trees were preserved, mitigation would have been 47 inches total

With preservation incentive, mitigation would have been reduced to 23.5 inches total

-50% of diameter inches: reduced to 23.5 inches

-5" credit: reduced to 37 inches

1251 Selva Marina Drive: removed 24" Live Oak

If tree was preserved, mitigation would have been 42.5 inches total

With preservation incentive, mitigation would have been reduced to 32 inches total

-50% of diameter inches: reduced to 30.5 inches

-5" credit: reduced to 37.5 inches

2347 Fiddlers Lane: removed 32" Live Oak

If tree was preserved, mitigation would have been 254 inches total

With preservation incentive, mitigation would have been reduced to 190.5 inches total

-50% of diameter inches: reduced to 238 inches

-5" credit: reduced to 249 inches

264 Ocean Blvd: removed 26" Magnolia

If tree was preserved, mitigation would have been 65 inches total

With preservation incentive, mitigation would have been reduced to 32.5 inches total (*preserved another legacy tree)

-50% of diameter inches: reduced to 35 inches

-5" credit: reduced to 55 inches

30 20th Street: Removed 21" and 30" Magnolias

If tree was preserved, mitigation would have been 28 inches total

With preservation incentive, mitigation would have been reduced to 21 inches total

-50% of diameter inches: reduced to 14 inches

-5" credit: reduced to 18 inches

340 Ocean Blvd: Removed two 21" Live oaks

If tree was preserved, mitigation would have been 20 inches total

With preservation incentive, mitigation would have been reduced to 15 inches total

-50% of diameter inches: reduced to 10 inches

-5" credit: reduced to 15 inches

347 10th Street: Removed 22" Live Oak

If tree was preserved, mitigation would have been 100 inches total

With preservation incentive, mitigation would have been reduced to 75 inches total

-50% of diameter inches: reduced to 89 inches

-5" credit: reduced to 95 inches

761 Paradise Lane: Removed 31" Live Oak

If tree was preserved, mitigation would have been 40 inches total

With preservation incentive, mitigation would have been reduced to 20 inches total (*preserved another legacy tree)

-50% of diameter inches: reduced to 23 inches

-5" credit: reduced to 21 inches

120 Jackson St: Removed 35" Elm

If tree was preserved, mitigation would have been 11 inches total

With preservation incentive, mitigation would have been reduced to 8.25 inches total

-50% of diameter inches: reduced to 5.5 inches

-5" credit: reduced to 6 inches

1650 E Park Terrace: Removed 42" Live Oak

If tree was preserved, mitigation would have been 44 inches total

With preservation incentive, mitigation would have been reduced to 33 inches total

Environmental Stewardship Committee 2019

MARITIME FOREST

- 1 Tree canopy education program targeted to include homeowners and tree trimmers
- 2 Tree canopy development to include assessment and plantings
- 3 Tree ordinance - complete revisions - to CC for final review and enactment (in process)

PARKS & OPEN SPACES

- 1 Support staff with continuing development of Parks Master Plan to include:
 - a Survey of individual park needs/develop "wish list"
 - b Create web-based accessible inventory of parks including their historical Amenities, deed restrictions and conservation easements, with park

BEAUTIFICATION OF PUBLIC & PRIVATE SPACES

- 1 Research/assist with incentive grants for private & commercial properties improve ESC award recognition of improved properties

ENVIRONMENTAL STEWARDSHIP

- 1 Achieve, announce and promote LEED for Cities certification, road map, and continuing
- 2 Detail what future requirements of continuing certification are that would be supported

9 Workplan		ESC dot rating
rs, developers		11
		9
ess)		9
	(in process)	8
y, rules of use, photos.	(in process)	7
ment with		10
ued improvement orted by ESC		8