



AGENDA

Local Planning Agency Meeting

5:45 PM – Thursday, April 20, 2023 – City Hall

CALL TO ORDER

ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE

1. APPROVAL OF MINUTES

1.1 Approval of Minutes

March 16, 2023 LPA Meeting

2. CONSIDERATION WITH DISCUSSION, PUBLIC HEARINGS AND RECOMMENDATION

2.1 Ordinance Number 23-08: Amending the tree protection section of the City's Land Development Regulations to increase the penalty amount for tree removal without a permit from \$50 to \$2,500

3. ADJOURNMENT

This Agenda is provided to the Commission only as a guide, and in no way limits their consideration to the items contained hereon. The Commission has the sole right to determine those items they will discuss, consider, act upon, or fail to act upon. Changes or amendments to this Agenda may occur at any time prior to, or during the scheduled meeting. It is recommended that if you have an interest in the meeting, you make every attempt to attend the meeting. This Agenda is provided only as a courtesy, and such provision in no way infers or conveys that the Agenda appearing here is, or will be the Agenda considered at the meeting.

If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (Florida Statutes, 286.0105). In accordance with the Americans with Disabilities Act of 1990, persons needing a special accommodation to participate in this proceeding should contact the City Clerk 48 hours prior to any meeting so arrangements can be made. Telephone (352) 483-5430 for assistance.



City of Eustis

P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

TO: EUSTIS LOCAL PLANNING AGENCY

FROM: Christine Halloran, City Clerk

DATE: April 20, 2023

RE: Approval of Minutes

Introduction:

This item is for consideration of the minutes of March 16, 2023 Local Planning Agency.

Recommended Action:

Approval of the minutes as submitted.

Policy Implications:

None

Prepared and Reviewed By:

Christine Halloran, City Clerk



MINUTES

Local Planning Agency Meeting

5:30 PM – Thursday, March 16, 2023 – City Hall

CALL TO ORDER: 5:35 P.M.

ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE

PRESENT: Mr. Gary Ashcraft, Ms. Nan Cobb, Mr. Willie Hawkins, Vice Chair Emily Lee and Chairman Michael Holland

1. APPROVAL OF MINUTES

1.1 Approval of Minutes

January 19, 2023 LPA Meeting

Motion was made to approve the Minutes as submitted. Motion made by Mr. Hawkins, Seconded by Vice Chair Lee. Motion passed on the following vote:

Voting Yea: Mr. Ashcraft, Ms. Cobb, Mr. Hawkins, Vice Chair Lee and Chairman Holland

2. CONSIDERATION WITH DISCUSSION, PUBLIC HEARINGS AND RECOMMENDATION

2.1 Ordinance Number 23-06: Assignment of Future Land Use District for Annexation of Requested Parcels Alternate Key Numbers 1784077, 1784140, 1444756, 2585153 and 2535628

Tom Carrino, City Manager, explained the proposed annexation of five parcels before the LPA for consideration noting two are owned by one group and contiguous to the City and three are owned by a separate group and not contiguous until the first two parcels are annexed. He stated State Statute requires the single ownership of the parcels to be annexed as a group. He clarified that all five parcels are actually owned by the same people, but they are two separate legal entities. He further explained that the three parcels are owned by a trust that wholly owns the first two parcels. He suggested that, out of an abundance of caution, the Local Planning Agency (LPA) may choose to pull these items and re-advertise them as two separate annexations and then bring back the items at a separate date. Mr. Carrino deferred to the City Attorney. He stated staff's confidence that all parcels are owned by the same people and the same overarching entity. He commented that the staff was confident in moving forward but it was an LPA decision for the next steps.

Attorney Sasha Garcia responded they had reviewed the items and the statute requiring contiguity on a boundary with the municipality is satisfied on the North end. She commented that the two legal entities are wholly owned by the same entity and the boundaries are touching. Ms. Garcia noted that she did not find any case law that would provide assurance either way. She stated it is a decision for the LPA regarding if they comfortable proceeding knowing that it is wholly owned by one entity.

The LPA asked about case law forbidding the action with Attorney Garcia responding that the statute requires for voluntary annexation that there is a boundary and the City has that. She noted that two of the parcels are owned by a separate legal entity;

however, it was determined they are actually owned by the same person. She noted that there could be a legal challenge as to the ownership because of the trust. She concluded that, otherwise, the annexation component satisfies the requirements of the statute.

Mr. Carrino confirmed the ownership and location of the parcels stating three of the parcels are owned by the trust and then the MC Group owns the other two parcels. The MC Group parcels are contiguous and the three parcels owned by the trust are not until the airport is annexed. All are collectively owned by the trust.

Discussion was held regarding annexing the two contiguous parcels and then bringing back the other three.

CONSENSUS: It was a consensus of the Board to proceed with annexation of the two parcels and then bring back the other three parcels.

Mr. Carrino explained the presentation is based on annexation of all five parcels. He stated staff would have to amend the ordinances to divide out the parcels.

Jeff Richardson, Deputy Development Services Director, reviewed the proposed annexation and change in the future land use designation from Public Facilities and Infrastructure and Urban Low in Lake County to Mixed Commercial Residential (MCR) in the City. He explained the division in the properties noting that it is historically known as the Eustis Airport property. He stated the majority of the property is clear with trees on the eastern boundary.

Mr. Carrino clarified that the large parcels that run north south are the ones that are currently contiguous and the three to the west are the ones that may have to wait.

Mr. Richardson stated staff has determined that the property meets the statutory requirements and is consistent with the future land use requirements and with the City's procedural chapters. He explained the proposed future land use change to City Mixed Commercial Residential. He indicated the proposal is consistent with the surrounding properties assuming the other three properties are annexed and commercial would be located along the highway.

Mr. Carrino explained that the Commission has asked that staff bring plans regarding any proposed annexations; however, this project was in the process prior to that request being made. He stated staff did ask the owner to address the Board regarding their plans. He emphasized that staff were cognizant of the Commission's wishes. He cautioned that he had discussed with the City Attorney what the City can and can't ask pertaining to annexation requests. He indicated staff may be bringing back more information regarding that issue.

Mr. Richardson noted that SR 44 is an urbanizing area between Hwy. 441 and Orange Avenue (also known as State Route 44); therefore, annexation and the proposed land use would be consistent with the development patterns in the area although it would be more intense as expected. He provided an overview of staff's analysis of the request. He noted that there is an isolated wetland on the property. He added that the property is wedged between two municipalities in an urbanizing area so it will most likely be annexed to one or the other. He stated staff's recommendation for transmittal to the Commission for consideration.

Mr. Carrino indicated the owner could also do a "unity of title" quit claim deed and the Board to not move forward to allow them time to place all of the property under one ownership before proceeding.

The Board asked to hear from the owner before opening the floor to public comment.

Yasamin Rahmanparast stated her family has owned the property since 2005. She explained they have always shared a boundary with the City and, when one of the neighboring properties recently annexed, they felt annexing at that time was a logical continuation of the growth in the area. She added that the City's annexation incentive program was also a contributing factor. She noted the increasing costs of operating the airport and with the annexation it would give them the ability to do different things with the property. She noted that the airport has been functioning since sometime in the 1950's. She cited the phone calls they receive from neighbors regarding noise from the airport. She indicated that the airport may not be as compatible with the surrounding area as it used to be. She added that they have always been supportive of the City even though they were located in unincorporated Lake County. She noted they dedicated part of their land to Lift Station #29 and there is a 12" water line running through the property. She complimented the City on its recent growth and progress and stated they want to be part of that. She concluded stating they are fine with either annexing the properties separately or combining and annexing at one time. She clarified the entities owning each portion of the property.

Chairman Holland questioned whether or not the Board would prefer to consider the property as a whole or proceeding with the first two parcels. Ms. Rahmanparast stated they are fine with proceeding with the first two parcels and then the remaining parcels.

Chairman Holland opened the public hearing at 5:58 p.m.

Ron Davis, representing the Lakes of Mount Dora, stated they have about 3,000 feet contiguous with the property and noted they have not been notified regarding the hearing.

It was confirmed that the residents of Lakes of Mount Dora were notified of the hearing.

Mr. Davis then questioned whether or not they have considered converting the airport to a municipal airport. He cited the benefits to the airport and the City in doing that. He indicated that there are at least fifty residents of the Lakes of Mount Dora that moved there due to the proximity to the airport. He cited the funding available from the FAA for improvements to and operating costs for the airport. He suggested they look at the Umatilla Airport as an example.

Mark Mullen, resident of Lakes of Mount Dora, spoke about the importance of the tree-lined area as a natural barrier for sound and aesthetics. He noted that the Lakes of Mount Dora does own a large portion of the treed area.

Brian Brooks questioned the contiguity of the property with the City. He cited issues for the New Hope Presbyterian Church pertaining to traffic, access, and the sewer line. He indicated that the plans for improvements to the roadway by FDOT are currently on an indefinite hold according to Elizabeth Barteles, the PE engineer for the FDOT project. He also commented on the desirability of a gravity sewer line for the church.

Dennis Spivey cited his enjoyment of the airport area and expressed the hope that it stays as well as the tree-lined area.

Tom Pauls noted he is a retired city planner and is pleased that the proposal is consistent with the comprehensive plan. He suggested they insure the public facilities are adequate and expressed concern regarding the traffic impact analysis. He suggested the adjoining properties enter into an interparcel agreement to provide an easement to consolidate the access onto SR 44 which might allow FDOT to warrant a traffic signal.

Orin Owen stated he lives on Eustis Airport Road and that he bought his house because of the airport. He emphasized that 44B will not support any additional traffic. He expressed opposition to allowing any development along 44B until the road is improved to support the growth. He stated he would support commercial development but not residential.

Cindy Newton asked the attorney to address whether or not Alternate Key 2612525 would create a pocket.

Attorney Garcia indicated it would not create a pocket or enclave as there is access to that road.

Bob Vinassa, Lakes of Mount Dora, expressed support to maintaining the tree-lined area. He expressed concern regarding the MCD zoning noting that anything could be placed in that designation. He suggested utilizing different designations for the property along the road versus the property adjacent to the residential areas.

Mr. Carrino explained that the Mixed Commercial Residential designation does allow a variety of uses; however, it is the designation that is the most consistent future land use designation with what is already in the area. He indicated, while it is what is requested, it is also what is most consistent with what is already in the City in that area and is a good transition.

Ms. Rahmanparast explained that with the Huddle annexation there is now a contiguous boundary. She stated that a traffic engineer will be required to do a formal report prior to any development in order to determine what is best for the neighborhood. Regarding the tree line with the Lakes of Mount Dora, she indicated that the Lakes of Mount Dora owns most of the boundary so they can do what they want. She stated otherwise it would be addressed during development review. Regarding the suggestion that the airport be converted to a municipal airport, she stated it has always been privately owned and they have never taken funds from any entity so they have never considered it. She acknowledged that the MCR land use is very broad. She stated that they are being annexed into the City so that the Commission will have the ability to review whatever is submitted.

Ms. Rahmanparast provided the Alternate Key numbers for the two parcels under consideration - AK# 1784077 and AK# 1784140.

Motion was made to transmit to the City Commission Ordinance 23-06 amended to pertain to Alternate Key Numbers 1784077 and 1784140. Motion made by Ms. Cobb, Seconded by Vice Chair Lee. Motion passed on the following vote:

Voting Yea: Mr. Ashcraft, Ms. Cobb, Mr. Hawkins, Vice Chair Lee and Chairman Holland

3. ADJOURNMENT: 6:20 P.M.

**These minutes reflect the actions taken and portions of the discussion during the meeting. To review the entire discussion concerning any agenda item, please go to www.eustis.org and click on the video for the meeting in question. A DVD of the entire meeting or CD of the entire audio recording of the meeting can be obtained from the office of the City Clerk for a fee.*

CHRISTINE HALLORAN
City Clerk

MICHAEL L. HOLLAND
Chairman



City of Eustis

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TO: EUSTIS LOCAL PLANNING AGENCY

FROM: Tom Carrino, City Manager

DATE: April 20, 2023

RE: Ordinance Number 23-08: Amending the tree protection section of the City's Land Development Regulations to increase the penalty amount for tree removal without a permit from \$50 to \$2,500

Introduction:

Since the Lake Lincoln Lookout Subdivision site was completely cleared of trees contrary to their approvals, the City Commissioners have sought methods to prevent this from happening in the future. To that end, the City Commissioners have instructed the Development Services staff to make a few changes to the Tree Protection section of the City's Land Development Regulations. The proposed change is considered a quick fix until additional best practices relating to tree protection can be brought back, presented, discussed by the City Commission and added to the City's Land Development Regulations.

Background:

Staff recommends approval of this change to be added to the City's Land Development Regulations so that this penalty can be imposed on those property owners/contractors/individuals who cut down a protected tree in the City.

Budget/Staff Impact:

A tree fund should be established by the City to have a specific separate account to place future fines and penalties.

Prepared By:

Mike Lane, AICP, Director, Development Services

Attachment:

Ordinance Number 23-08

Revised Tree Protection Ordinance

ORDINANCE NUMBER 23-08

AN ORDINANCE AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF EUSTIS, FLORIDA; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Eustis City Commission has adopted the City of Eustis Comprehensive Plan within which are included goals, objectives, and policies related to the adoption of land development regulations; and

WHEREAS, Chapter 163, Part II, Section 3201, the Florida Statutes, requires the implementation of these goals, objectives, and policies through the adoption of consistent land development regulations; and

WHEREAS, Chapter 163, Part II, Section 3202, of the Florida Statutes requires each county and municipality to adopt or amend and enforce land development regulations that are consistent with and implement the adopted comprehensive plan within one (1) year after submission of the revised comprehensive plan for review to the state; and

WHEREAS, the Local Planning Board considered this request, found it consistent with the goals, objectives and policies of the local Comprehensive Plan, and recommended approval at a properly advertised public hearing on April 20, 2023; and

WHEREAS, the Local Planning Board and the Eustis City Commission have determined that tree protection is in the best interest of the health, safety, and welfare of the public.

NOW THEREFORE, IT BE ORDAINED by the City Commission of Eustis, Florida, amends the Land Development Regulations as follows:

Section 1. The Land Development Regulations shall be amended to read as follows:

Sec. 115-10.5. Tree Replacement.

(e) Any property owner that removes a protected tree for which an approved City tree removal permit was required, but not obtained, and which also meets the criteria for removal listed under section 115-10.3 (e) shall be subject to a \$2,500.00 fine per tree.

Section 2. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. This ordinance shall become effective upon passage.

Sec. 115-10. Tree protection and vegetation preservation.

Purpose and intent. The purpose of this section is to establish rules and regulations governing the protection of trees and vegetative cover as a valuable community resource within the City; to encourage the proliferation of trees and vegetation within the City as well as their replacement; to recognize their importance and their meaningful contribution to a healthy, beautiful, and safer community attributable to their carbon dioxide absorption, oxygen production, dust filtration, wind and noise reduction, soil erosion prevention, lakeshore erosion protection, wildlife habitat, surface drainage improvement, beautification and aesthetic enhancement of improved and vacant lands; and the general promotion of the health, safety, welfare and well-being of the community. Tree protection is beneficial to the City by improving community appearance and quality of life, enhancing property values, and creating a functional and aesthetically pleasing living environment for existing and future residents. Therefore, the City finds that it is in the best public interest to enact and enforce the regulations described herein for the purpose of controlling tree removal, clear cutting and strip clearing of land.

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.1. General requirements and definitions.

- (a) The terms and provisions of this section shall apply to all real property located within the corporate boundaries of the City, except such properties as are exempted herein.
- (b) It shall be unlawful for any person, firm or corporation, either individually or through an agent to cut down, destroy, clear cut, remove, or effectively destroy through damaging any protected tree without first obtaining an approved City tree removal permit, except as specifically exempted herein.
- (c) Developers of sites that have been completely or partially cleared of trees due to agricultural use or other reasons shall be required to comply with the minimum tree requirements as described in section 115-10.7.
- (d) Issuance of a City tree removal permit, or exemption from these requirements, does not exempt any legal obligation or requirement to comply with the regulations of any other governmental agency, local, state, or federal which may have jurisdiction over proposed activity upon the land.
- (e) Trees and vegetative groundcover should be preserved or enhanced in development areas exceeding ten percent slope, within the 100-year floodway, or within 50 feet of the ordinary high water line of lakes, rivers or canals to the greatest extent practicable. This 50-foot buffer area shall remain a natural vegetative buffer zone between development areas and the above-referenced water courses, except for City-approved water-related facilities, such as docks, walkovers, ramps, marinas, etc.
- (f) A protected tree is any tree not listed on the list of noxious/exotic species in section 115-10.9 and meeting one of the following requirements:
 - (1) Trees with a DBH of six inches or greater.
 - (2) Trees located in a wetland area as determined by the agencies having jurisdiction.

- (g) A specimen tree is a tree designated by the City Commission that is rare or unique due to factors such as size, age, ecological value, or type of species having one or more of the following characteristics:
- (1) A diameter of 30 inches DBH or greater.
 - (2) A determined age of 50 years or greater.
 - (3) A determined ecological value; e.g. wildlife habitat, erosion control, etc.
 - (4) A determined unique form or shape due to geography, climate, environment or natural growth conditions.
 - (5) A rare, or unique, non-indigenous tree that is not common to the City (but not on the list of noxious/exotic species).

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.2. Exemptions.

A tree removal permit (see section 115-10.3, Review procedures, and section 115-10.4, Submission requirements) shall not be required under the following conditions and situations as determined by the Director of Development Services or designee:

- (a) A bona fide agricultural use such as citrus, tree nurseries, forest crops, animal husbandry, and greenhouses.
- (b) Removal of dead trees.
- (c) Removal of trees that are an imminent danger to public or private property, as verified by the Director of Development Services or designee.
- (d) Removal of trees planted on the premises of a plant nursery or tree farm that have been grown expressly for the purpose of selling to the general public in the ordinary course of business.
- (e) Removal of any tree on the list of noxious/exotic species in section 115-10.9.
- (f) Removal of trees within approved utility rights-of-way or easements that are necessary to supply gas, water, sewer, telephone, cable television, electrical service, or other needed utilities. This exemption applies only to authorized personnel of the applicable utility and not to the property owner.
- (g) Public utilities with the power of eminent domain may remove or transplant trees either on-site or off-site without a permit.
- (h) Emergency conditions may require the Director of Development Services or designee to waive all, or part, of the requirements of this chapter in the event of manmade or natural disasters such as hurricanes, tornadoes, floods, storms/high winds, hard freezes, fires, etc. The waiver shall apply to a geographically defined area for a period not to exceed 90 days. Longer periods shall require City Commission approval.

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.3. Review Procedures.

- (a) A tree inventory and tree removal permit application shall be submitted to the Director of Development Services or designee prior to the commencement of any development activity, except as specifically exempted herein.
- (b) Trees may be removed for construction purposes where all reasonable alternatives are exhausted for relocating the specific construction.
- (c) The removal/replacement of trees that are 24 inches DBH or greater is strongly discouraged. Therefore, all reasonable alternatives or methods that are available, such as design modifications, shall be closely examined before removal will be authorized.
- (d) During application review, the Director of Development Services or designee shall consider the effect that the proposed development activity will have on the future viability of the trees to be retained/relocated within the area to be developed.
- (e) A tree removal permit shall be issued, as determined by the Director of Development Services or designee, if one or more of the following conditions exists:
 - (1) *Street opening*. Tree location restricts the opening of a street or road right-of-way.
 - (2) *Utilities and drainage*. Tree location restricts the construction of public utility lines or drainage facilities.
 - (3) *Property access*. Tree location restricts vehicular access to the property, where there are no other reasonable access points.
 - (4) *Property use*. Tree location restricts reasonable use of the property consistent with all other applicable City, county and state codes, statutes and/or ordinances; and design modifications are not practical or reasonable.
 - (5) *Hazard*. A tree that constitutes a hazard to life or property and can be resolved by removal.
 - (6) *Poor tree health*. Tree is diseased, lacking functioning vascular tissue, or deteriorating to such a state that restoration methods to bring the tree to a sound condition are not practical; or the tree has a disease that can be expected to be transmitted to other trees thereby endangering their health.
 - (7) *Single family home*. The protected tree is located within 15 feet of an occupied single family residence, but not within a public right-of-way or on someone else's property. The 15 foot distance shall be measured from the trunk of the subject tree to the dwelling unit structure.
 - (8) *Thinning of trees*. Trees are so densely situated on a parcel as to significantly impair light and air circulation, which causes poor health conditions or tree disease, so that removal of up to 25 percent of such trees is necessary to alleviate the condition.
 - (9) *Redevelopment*.
 - For nonresidential developments, mixed use developments, and multi-family developments: The property owner has submitted a revised landscape plan consistent with City regulations for redevelopment of the subject site.

- For developed single family residential lots: The property owner is replacing the tree in another location or with an alternative species. The replacement tree must meet the minimum requirements set forth in section 115-10.7.
 - For purposes of these land development regulations, redevelopment shall not be considered a valid condition for removal if the tree removal permit is submitted after the fact.
- (f) An approved City tree removal permit shall identify which trees are to be removed, methods of protection from impacts of construction, and the tree replacement requirements necessary to compensate for the loss of protected trees. The minimum compensation requirement shall be the number of replacement trees required to maintain compliance with the minimum tree requirements included in section 115-10.7.

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.4. Submission requirements.

- (a) Clear-cutting of vacant land without an approved development plan is prohibited. All property owners planning to initiate any development activity which has the potential to affect trees and vegetative cover are hereby required to submit a City tree inventory and tree removal permit application. This requirement includes, but is not limited to, the following:
- (1) Developers of all new residential subdivisions shall be required to submit a tree inventory and tree removal permit application at the time of initial preliminary plan submittal to the City, so that due consideration may be given to protection of trees during the subdivision design and review process.
 - (2) Developers of any commercial, industrial, multi-family, or other use, requiring site plan approval under the jurisdiction of this land development regulation, shall be required to submit a tree inventory and tree removal permit application at the time of initial site plan submittal to the Development Services division, so that due consideration may be given to protection of trees during the site plan design/review process. A tree inventory may be shown on the site plan.
 - (3) Developers of all new single family and duplex dwelling units shall be required to submit a tree inventory/tree removal permit application at the time of City-issued building permit application. A tree inventory may be shown on the building permit site plan.
- (b) Each tree inventory, for subdivision/site plan review, shall consist of a drawing or accurate representation with an appropriate scale to show tree locations, delineating the following information:
- (1) Property boundaries, existing and proposed structures and surrounding road system;
 - (2) Location, number, size, and species (utilizing botanical or common names) of all trees with a six inch dbh or greater within areas to be disturbed by construction. With approval of the Director of Development Services, the inventory requirements may be modified for heavily wooded sites.

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.5. Tree Replacement.

- (a) All protected trees that have been removed, for which an approved City tree removal permit was required but not obtained and which do not meet the criteria listed under section 115-10.3 (e), will require replacement at a ratio of two replacement trees for each tree removed without a permit and other possible sanctions as determined by the code enforcement board or the special magistrate in accordance with F.S. § 162.09(2)(a).
- (b) All replacement trees shall be a minimum of two inches DBH, ten feet tall, and five feet wide at the time of planting and selected from the approved tree list included in section 115-10.7. Approved ornamental and palm trees shall not exceed 25 percent of tree replacement requirements and at least 50 percent of the trees shall be live oaks.
- (c) Replacement trees shall be planted on-site, if practical, otherwise the developer/property owner shall donate the monetary value of the required trees to the City for the purpose of planting trees on public property.
- (d) All replacement trees shall be in good health, conform to the standards for Florida No. 1 or better as given in Grades and Standards for Nursery Plants, State of Florida, Department of Agriculture and Consumer Services, Tallahassee (97T-05, second edition, February 1998), which is hereby adopted and included by reference herein. A copy of such publication is available from the Director of Development Services or designee.
- (e) **Any property owner that removes a protected tree for which an approved City tree removal permit was required, but not obtained, and which also meets the criteria for removal listed under section 115-10.3 (e) shall be subject to a \$2,500.00 fine per tree.**

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.6. Tree protection during construction.

- (a) Property owners/developers shall protect, during construction, all protected trees within areas to be disturbed by construction activities as identified on an approved tree removal permit. Tree removal, building, or other development permits may be revoked if protective measures are not used at any time during construction.
- (b) The following shall be prohibited within the tree protection zone (defined in Chapter 100) of designated trees, unless authorized by the Director of Development Services:
 - (1) Parking of heavy equipment, cars and trucks or vehicular traffic;
 - (2) Stockpiling of any materials;
 - (3) Deposition of soil, sediment, or mulch;
 - (4) Grading or grubbing;
 - (5) Excavation or trenching;
 - (6) Burning or burial of debris, within the entire construction site;
 - (7) Dumping oil, gasoline, paint, chemicals, wastewater, or other construction wastes. Storage of potentially hazardous materials shall be in appropriate, non-leaking containers as far away from tree protection zone as possible.

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.7. Minimum Tree Planting Requirements.

- (a) All properties requesting development approval (residential and nonresidential) must meet minimum tree requirements as specified below unless otherwise exempted.
- (b) *Minimum Tree Requirements.*

Lot Area (sq. ft.)	Minimum Number of Trees
Less than 6,000	2
6,000—10,000	3
10,000—16,000	4
16,000—20,000	5
Over 20,000	6

- (c) One of the minimum number of trees required shall be planted as a street tree. Such tree shall be planted prior to occupancy of the structure and shall be a maximum of ten feet inside the front property line.
- (d) All property owners/developers that are requesting building permits/development approvals for individual lots (single family or duplex), or individual lots within an approved subdivision (see section 115-10.4, Submission requirements), must meet minimum tree requirements for each specific lot prior to the issuance of a certificate of occupancy, unless otherwise exempted.
- (e) Proper care and maintenance of recently planted trees and vegetation; i.e., necessary water, fertilizer, and support structures, shall be the property owner's/developer's responsibility and be guaranteed for the duration of an Approved Maintenance Agreement (two years) with the City. Upon sale of an individual lot, the responsibility for care and maintenance of trees is transferred to the new property owner of said individual lot.
- (f) Ongoing maintenance is required and shall consist of mowing, removal of litter and dead plant materials, necessary pruning, watering, fertilizing and replacing frozen or dead plants and trees. In the event vegetation or trees die over time, replacement of vegetation specific to genus and species shall be as originally illustrated on the approved site plan.
- (g) If required, the property owner will replace trees that do not survive during the Approved Maintenance Agreement time period. The replacement tree shall fulfill the duration of the Maintenance Agreement.
- (h) Trees used in fulfillment of the requirements of this section shall be a minimum of two inches DBH and ten feet tall and five feet wide at the time of planting and selected from the approved tree list (section 115-10.7(f)). Approved ornamental and palm trees shall not exceed 25 percent of minimum tree requirements. All required trees shall be in good health, conform to the standards for Florida No. 1 or better, as given in the Grades and Standards for Nursery Plants, State of Florida, Department of Agriculture and Consumer Services as referenced herein. Trees used to meet these minimum tree requirements can also be used in calculations for minimum buffer requirements in chapter 110 of this land development regulation.

- (i) Trees and shrubs permitted within the City shall include but not be limited to the following:

Ash (*Fraxinus* sp.)
Atlantic White Cedar (*Chamaecyparis thyoides*)
Basswood (*Tilia* sp.)
Black Gum/Tupelo (*Nyssa sylvatica*)
Cabbage Palm (*Sabal palmetto*)
Cedar (tree form only) (*Juniperus* spp.)
Chickasaw Plum (*Prunus angustifolia*)
Crape Myrtle (*Lagerstroemia indica*)
Cypress (*Taxodium* spp.)
Date Palms (*Phoenix* spp.)
Devilwood (*Osmanthus americanus*)
Fringe Tree (*Chionanthus virginicus*)
Elm (*Ulmus* spp.)
Flowering Dogwood (*Cornus florida*)
Hackberry (*Celtis* spp.)
Hickory (*Carya* spp.)
Holly (tree form only) (*Ilex* spp.)
Hornbeam/Blue Beech (*Carpinus caroliniana*)
India Rosewood (*Dalbergia sissoo*)
Jerusalem Thorn (*Parkinsonia aculeata*)
Loblolly Bay (*Gordonia lasianthus*)
Loquat (*Eriobotrya japonica*)
Magnolia (*Magnolia* spp.)
Maple (*Acer* spp.)
Oak (*Quercus* spp.)
Persimmon (*Diospyros virginiana*)
Pine (*Pinus* sp.)
Red Bay (*Persea borbonia*)
Redbud (*Cercis canadensis*)
Red Mulberry (*Morus rubra*)
Southern Wax Myrtle (*Myrica cerifera*)
Sparkleberry (*Vaccinium arboreum*)

Sweetgum (*Liquidambar styraciflua*)
 Sycamore (*Platanus* sp.)
 Tulip Poplar (*Liriodendron tulipifera*)
 Washington Palm (*Washingtonia robusta*)
 Willow (*Salix* sp.)

Fruit Trees:

Apple (*Malus* spp.)
 Apricot (*Prunus armeniaca*)
 Grapefruit (*Citrus paradisi*)
 Lemon (*Citrus limon*)
 Lime (*Citrus aurantiifolia*)
 Orange (*Citrus sinensis* spp.)
 Tangerine (*Citrus reticulata*)
 Tangelo (*Citrus reticulata* x *paradisi*)
 Fig (*Ficus carica*)
 LeConte Pear (*Pyrus communis* x LeConte)
 Plum (*Prunus salicina*)

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.8. Voluntary planting.

- (a) Nothing in this Chapter shall be construed to prohibit the planting of trees or vegetation except that which is identified on the list of noxious/exotic invasive species (section 115-10.9(a)). Trees and/or other plants indicated on the list of noxious/exotic invasive species shall not be planted in the City. Noxious/exotic invasive species (section 115-10.9(a)) shall be removed from all development sites as a part of the normal site preparation activity.
- (b) Permission from the Director of Development Services shall be required prior to planting, pruning, or removing any tree in public parks, road rights-of-way, or other publicly owned property.

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.9. Removal of noxious/exotic invasive species.

- (a) Specific plant species, which are prohibited within the City, are as follows:
 - (1) *Canopy and understory trees.*
 - a. Australian Pine (*Casuarina* spp.).
 - b. Melaleuca (*Melaleuca quinquenervia*).

- c. Chinaberry (*Melia azedarach*).
- d. Ear Tree (*Enterlobium cyclocarpum*).
- e. Eucalyptus species (*Eucalyptus spp.*).
- f. Brazilian Pepper (*Schinus terebinthifolius*).
- g. Paper Mulberry (*Broussonetia papyrifera*).
- h. Silk Oak (*Grevillea robusta*).
- i. Empress Tree (*Paulownia tomentosa*).
- j. Tree of Heaven (*Ailanthus altissima*).
- k. Chinese Tallow Tree (*Sapium sebiferum*).
- l. Japanese Tallow Tree (*Sapium japonicum*).
- m. Camphor (*Cinnamomum camphora*).
- n. California Privet* (*Ligustrum ovalifolium*).

*both shrub and tree forms.

- o. Cedar Gum (*Eucalyptus gunnii*).

(2) *Shrubs, vines, and ground covers.*

- a. Air potato/air yam (*Dioscorea bulbifera*).
- b. Downy rose myrtle (*Rhodomyrtus tomentosa*).
- c. African Bowstring Hemp (*Sansevieria hyacinthoides*).
- d. Castor Bean Plant (*Ricinus communis*).
- e. Kudzu (*Pueraria lobata* Willd.).

- (b) Removal of plants listed on the list of noxious/exotic invasive species (section 115-10.9(a)) is required as a part of normal site preparation and shall not require a City tree removal permit.

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.10. Harmful acts.

- (a) No person shall abuse, mutilate or otherwise damage any protected tree, as described herein, or any tree located on public property, including those trees located in the public right-of-way along street frontages within subdivisions.
- (b) However, nothing in this section shall be construed to prevent reasonable and proper trimming of trees on public or private property by authorized persons in accordance with accepted horticultural methods established by the International Society of Arborists (ISA).
- (c) Any person who mutilates a tree in conflict with this section shall be required to remove the tree and will be required to comply with tree replacement provisions per section 115-10.5.

(d) No person shall attach any signs in an injurious manner to any tree, nor shall any person cause any substance harmful to trees to come in contact with them, or prevent water or oxygen from reaching their roots by excessive cut and fill activities.

(Ord. No. 16-31, 12-15-2016)