

**CITY OF ATLANTIC BEACH  
CITY COMMISSION MEETING  
STAFF REPORT**

**AGENDA ITEM:** Ordinance 95-15-109 (Tree Code)

**SUBMITTED BY:** Jeremy Hubsch  
Building and Zoning Director



**DATE:** April 10, 2015

**BACKGROUND:**

The Atlantic Beach City Commission has tasked staff with reviewing the City's tree code and making suggested revisions. The tree code has been workshopped several times by both the Community Development Board and City Commission. Staff has created an ordinance based on the outcomes of those meetings.

The major changes in the proposed code are:

- Creating a "Prohibited Species List". Trees on the Prohibited Species List are considered to be invasive or exotic and can be removed without a tree permit or mitigation. Additionally, no planting credit will be given to trees on the Prohibited Species List.
- Creating an "Atlantic Beach Recommended Species List". Replacement credit shall only be given to trees on the Recommended Species List, unless approved by staff.
- Removing the "interior zone" and "exterior zone" aspect of determining when a tree is protected. The code now states that all trees over 6' that are removed within two years prior to or two years subsequent to construction valued at over \$10,000 are protected.
- Creating a "Legacy Tree List". Legacy trees are trees that are considered the most desirable species in Atlantic Beach that are over 20' (other than Coastal Oaks at 8'). As proposed, the code requires a tree removal permit any time a Legacy Tree is removed. Mitigation is the same rate as other protected trees at 1:2. As proposed, Legacy Trees shall only be given mitigation credit when replaced by other species on the Legacy Tree List. However, they do not have to be the exact same species, nor do they have to meet the size requirements of an established Legacy Tree. The code also requires that at least 25% of required mitigation for Legacy Trees be provided on site in the form of replacement. Finally, incentive credit can be given to property owners who plant Legacy Trees when replacing protected trees that are not on the Legacy Tree List. The incentive credit is two times the normal replacement credit.
- Giving replacement credit to palms when they are replacing trees other than oaks or legacy trees. The maximum replacement credit for palms when replacing non-palms is either 40 inches or 50% of required mitigation, whichever is less. Replacement credit is limited to only palms on the recommended species list.

- Allowing a property owner to get replacement credit for plantings on an immediately adjacent neighbor's property. This shall only be allowed as a last resort to payment into the tree fund. The burden of proof would be on the property owner to show that they cannot accommodate required trees on their property.
- Creation of a waiver if an applicant is unable to meet a specific provision of the code. A waiver must be approved by the City Commission.

**BUDGET:** None.

**RECOMMENDATION:** Approve Ordinance 95-15-109

**ATTACHMENTS:** Ordinance 95-15-109

**REVIEWED BY CITY MANAGER:**

  
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**ORDINANCE NO. 95-15-109**

**AN ORDINANCE OF THE CITY OF ATLANTIC BEACH, FLORIDA, AMENDING CHAPTER 23, ARTICLES II AND III OF THE CODE OF ORDINANCES, PROTECTION OF TREES AND NATIVE VEGETATION, TO AMEND SECTION 23-8 DEFINITIONS OF: ATLANTIC BEACH PROHIBITED SPECIES LIST, ATLANTIC BEACH RECOMMENDED SPECIES LIST, EXTERIOR ZONE, INTERIOR ZONE, LEGACY TREE, REGULATED TREE, WAIVER; AMENDING SECTION 23-21 TO REQUIRE PERMIT WHEN A LEGACY TREE IS REMOVED; CHANGING CONSTRUCTION EXEMPTION FROM SIX (6) MONTHS TO TWO (2) YEARS IN SECTION 23-22; ADDING A NEW FEE FOR SINGLE TREE REMOVAL OF LEGACY TREES TO SECTION 23-26; REVISING THE MITIGATION TABLE IN SECTION 23-33 TO REMOVE INTERIOR AND EXTERIOR ZONES, CREATING A RECOMMENDED TREE SPECIES LIST, REVISING THE TREE SELECTION CRITERIA; ADDING THE ATLANTIC BEACH PROHIBITED SPECIES LIST TO SECTION 23-35; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City Commission of the City of Atlantic Beach, Florida seeks to strengthen the Atlantic Beach Tree Canopy, the City finds that it is necessary to amend Chapter 23, Articles II and III of the Atlantic Beach Code of Ordinances.

**NOW THEREFORE, BE IT ENACTED BY THE CITY COMMISSION ON BEHALF OF THE PEOPLE OF THE CITY OF ATLANTIC BEACH, FLORIDA:**

**SECTION 1. Regulation Amended.** That Section 23, Articles II and III of the Code of Ordinances, specifically the Protection of Trees and Native Vegetation, Sections 23-8, 23-21, 23-22, 23-26, 23-33, 23-35 of the City of Atlantic Beach, Florida, are hereby amended to read as follows:

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 those invasive exotic species recognized by the State of Florida as detrimental to the native ecosystems and included on the Florida Noxious Weed and Invasive Plants List. (F.A.C. 5B-57.007) 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 those native species best adapted to the local ecosystem and providing the most desirable characteristics to the community. Shall consist of species that are best adapted to the local ecosystem, which may provide the most desirable characteristics to the community. Replacement credit may only be given for trees on the Recommended Species list in Section 23-33 (f).(1).(f).~~

Buildable area shall mean the area of a site, parcel or lot, excluding any area which is not eligible for the issuance of a building permit by the city, 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.

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.

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. Trees that fork below breast height should be recorded as separate DBH for each.

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.

~~Exterior zone shall mean the outer area of a lot, public or private, defined by an imaginary line drawn parallel and offset twenty (20) feet in from the front and rear property lines and seven and one half (7½) feet in from side property lines.~~

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.

~~Interior zone shall mean the inner area of a lot, public or private, defined by an imaginary line drawn parallel and offset twenty (20) feet in from the front and rear property lines and seven and one half (7½) in feet from side property lines. This area is also referred to as the "buildable area."~~

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 ~~Florida Noxious Weed and Invasive Plant List (current edition)~~ 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 \$10,000 dollars, ~~and located within the exterior zone of said private property;~~
  - b. Trees defined as Legacy Trees by this chapter
  - ~~b. A DBH of twenty (20) inches or more, and located within the interior zone of said private property, if zoned residential; or~~
  - ~~c. A DBH of ten (10) inches or more, and located within the interior zone of said private property, if zoned nonresidential.~~
- (2) Public regulated tree shall mean any tree on public property, except those species listed on the ~~Florida Noxious Weed and Invasive Plant List (current edition)~~ Atlantic Beach Prohibited Species List, meeting the following conditions:
  - a. A DBH of six (6) inches or more, ~~and located within the exterior zone of said public property; or~~
  - ~~b. A DBH of ten (10) inches or more, and located within the interior zone of said public property.~~
- (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 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.

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 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.

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

Unless specifically exempted within following section 23-22, permits are required for removal of trees on all lands ~~and in connection with all development, construction or clearing activities~~ within the City of Atlantic Beach, which shall include the following:

- (1) New development on any previously undeveloped lands, or redevelopment on any vacant land where structures may have been fully or partially cleared.
- (2) 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 ~~one~~ 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.
- (3) 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.
- (4) Removal of any tree on the Atlantic Beach Legacy Tree List.

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

The following activities shall be exempt from the requirements to apply for and receive a tree or vegetation removal permit, except that none of these exemptions shall be construed to apply to any coastal dune vegetation seaward of the coastal construction control line or to heritage trees. 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 ~~six (6) months~~ two (2) years prior and ~~six (6) months~~ 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.

- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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) 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) 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.

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, amendment, or extension of a permit required by this chapter, 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
  - 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. 23-33. - 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		
	Interior Protected	Exterior	Heritage
Private parcels	1:2	<del>1:2</del>	1:1
Public parcels	1:1	<del>1:1</del>	2:1
Public rights-of-way, easements, etc.	1:1	<del>2:1</del>	3:1
Environmentally sensitive areas	2:1	<del>2:1</del>	3:1
Historic corridor	2:1	<del>2:1</del>	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, and shall occur within thirty (30) days, or prior to issuance of a certificate of occupancy or other final approval, 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 nor transplanted 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 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 ~~a minimum of~~ 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. 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 shall be attached with the tree permit application.
- f. Atlantic Beach Recommended Species List: replacement trees shall selected from the following list. This list was created based on hardiness, disease and pest resistance, availability, and size variance. No mitigation credit will be approved for trees that are not on this list, unless approved by the administrator.

CITY OF ATLANTIC BEACH  
RECOMENDED TREE LIST

<u>SHADE TREES</u>	
<u>Common Name</u>	<u>Botanical Name</u>
<u>Ash, Green</u>	<u>Fraxinus pennsylvanica</u>
<u>Ash, Water</u>	<u>Fraxinus caroliniana</u>
<u>Bay, Loblolly</u>	<u>Gordonia lasianthus</u>
<u>Cedar, Southern Red</u>	<u>Juniperus silicicola</u>
<u>Cypress, Bald</u>	<u>Taxodium distichum</u>
<u>Cypress, Pond</u>	<u>Taxodium ascendens</u>
<u>Elm, American</u>	<u>Ulmus americana</u>
<u>Elm, Florida</u>	<u>Ulmus american floridana</u>
<u>Elm, Lacebark</u>	<u>Ulmus parvifolia</u>
<u>Hickory, Mockernut</u>	<u>Carya Tomentosa</u>
<u>Hickory, Pecan</u>	<u>Carya illinoensis</u>
<u>Hickory, Pignut</u>	<u>Carya glabra</u>
<u>Hickory, Water</u>	<u>Carya aquatica</u>
<u>Loquat, Japanese Plum</u>	<u>Eriobotrya japonica</u>
<u>Magnolia, Southern</u>	<u>Magnolia grandiflora</u>
<u>Magnolia, Sweetbay</u>	<u>Magnolia virginiana</u>
<u>Maple, Florida</u>	<u>Acer barbatum</u>

<u>Maple, Red</u>	<u>Acer rubrum</u>
<u>Oak, Live</u>	<u>Quercus virginiana</u>
<u>Oak, Shumard Red</u>	<u>Quercus shumardii</u>
<u>Oak, Swamp Chesnut</u>	<u>Quercus michauxii</u>
<u>Pine, Loblolly</u>	<u>Pinus taeda</u>
<u>Pine, Long-leaf</u>	<u>Pinus palustris</u>
<u>Pine, Slash</u>	<u>Pinus elliotii</u>
<u>Sugarberry</u>	<u>Celtis laevigata</u>
<u>Sweetgum</u>	<u>Liquidambar styraciflua</u>
<u>Sycamore</u>	<u>Platanus occidentalis</u>
<u>Tupelo</u>	<u>Nyssa sylvatica</u>

PALM TREES

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

UNDERSTORY OR ORNAMENTAL TREES

<u>Common Name</u>	<u>Botanical Name</u>
<u>Cedar, Red</u>	<u>Juniperus virginiana</u>
<u>Crape Myrtle</u>	<u>Lagerstroemia indica</u>
<u>Elm, Winged</u>	<u>Ulmus alata</u>
<u>Holly, American</u>	<u>Ilex opaca</u>
<u>Holly, Dahoon</u>	<u>Ilex cassine</u>
<u>Holly, East Palatka</u>	<u>Ilex attenuata</u>
<u>Holly, Yaupon</u>	<u>Ilex vomitoria</u>



<u>Oak, Myrtle</u>	<u>Quercus myrtifolia</u>
<u>Oak, Sand Live</u>	<u>Quercus geminata</u>
<u>Oleander</u>	<u>Nerium oleander</u>
<u>Podocarpus, Yew</u>	<u>Podocarpus macrophyllus</u>
<u>Privet, Glossy</u>	<u>Ligustrum lucidum</u>
<u>Privet, Japanese</u>	<u>Ligustrum japonicum</u>
<u>Redbud</u>	<u>Cercis canadensis</u>
<u>Wax Myrtle</u>	<u>Myrica cerifera</u>

(2) Selection criteria.

a. New oaks shall be used to replace removed oaks. 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 only to replace removed palms. 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.~~

New palms may be used as replacement trees when replacing species other than palms. Replacement credit for palms shall be limited to forty (40) inches or 50% 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 is removed, replacement credit shall only be given for the 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 25% of mitigation shall be provided on site in the form of replacement. Incentive credit shall be granted for the use of Legacy Trees when replacing protected trees that are not on the Legacy Tree lost. The incentive credit is equal to two 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 siliciola) (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.

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 trees under this chapter, and are exempt from mitigation. The trees on this list shall not be accepted for replacement or relocation credit.

<u>Australian pine</u>	<u>casuarina cunninghamiana</u>
<u>Australian pine thicket</u>	<u>casuarina glauca</u>

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

**SECTION 2. Conflict.** If any portion of this ordinance is in conflict with any portion of any other ordinance, then the provisions of this ordinance shall govern.

**SECTION 3. Severability.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

**SECTION 4. Effective Date.** This Ordinance shall take effect immediately upon its final passage and adoption.

**PASSED** by the City Commission on first reading this 27th day of April 2015.

**PASSED** by the City Commission on second and final reading this 11th day of May 2015.

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CAROLYN WOODS  
Mayor, Presiding Officer

ATTEST:

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DONNA L. BARTLE  
City Clerk

Approved as to form and correctness:

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RICHARD KOMANDO  
City Attorney