

**ORDINANCE NO. 2019-03**

**AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA; AMENDING CHAPTER 11 ENVIRONMENTAL PROTECTION, SEC. 11-27 DEFINITIONS “PRESERVED tree”, SEC. 11-28(c) AND 11-28(d) ISSUANCE OF BUILDING PERMITS, SEC 11-29 STANDARDS FOR REVIEW, INCLUDING SEC. 11-29(d), SEC. 11-29(d)(1)(e), SEC. 11-29(e) and SEC. 11-29(e)(4). SEC. 25-52 DEFINITIONS “PRESERVED tree”, and SEC. 25-58 VARIANCES AND CONSERVATION OVERLAY ZONE DEVELOPMENT REVIEW, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, § 166.041, Florida Statutes, provides for procedures for the adoption of ordinances and resolutions by municipalities; and

**WHEREAS**, the City Commission of the City of St. Augustine, Florida finds that all legal requirements have been met, a public hearing has been held and the Planning and Zoning Board has recommended that Section 11-27, Section 11-28(c), Section 11-28(d), Section 11-29, Section 11-29(d), Section 11-29(d)(1)(e), Section 11-29(e), Section 11-29(e)(4), Section 25-52 and Section 25-58, should be amended to reflect updates the city’s tree regulations; and

**WHEREAS**, the City Commission of the City of St. Augustine has determined that the following regulations promote and protect the general health, safety, and welfare of the residents of the City of St. Augustine; and

**WHEREAS**, the City Commission for the City of St. Augustine finds that it is in the best interest of public health, safety, and general welfare that the following amendments be adopted consistent with the requirements of Section 166.021(4), Florida Statutes.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:**

Section 1. Amendment to Chapter 11, Article II, Sections 11-27, 11-28 and 11-29.

Chapter 11, Article II, Sections 11-27, 11-28 and 11-29 are hereby amended, as follows:

**Sec. 11-27. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(...)

Significant tree means a tree described in the following list:

(...)

**Sec. 11-28. - Issuance of building permits.**

(...)

- (c) The planning and building division may issue permits for structures and uses otherwise permitted and located within Conservation Overlay Zone 3 provided that all healthy significant trees are retained on the site.
- (d) Removal of a significant tree shall be approved by the planning and zoning board. All significant trees removed shall be replaced in accordance with the requirements of chapter 25.

(...)

**Sec. 11-29. - Standards for review.**

(...)

- (d) Permits for structures and uses located within Conservation Overlay Zone 3 shall be issued only for those structures and uses which do not significantly alter the surface water hydrology or tree canopy cover, or cause the removal of significant trees. The planning and zoning board is authorized to impose limitations on the nature and manner of construction and/or so as to avoid alteration of surface water hydrology which would increase the flood hazard potential and to minimize the impact on existing trees and native vegetation.
  - (1) In determining whether or not a permit required by this section should be issued, the city planning and zoning board shall consider and base all decisions on the following:
    - a. The condition of the tree with respect to disease, insect attack, danger of falling, proximity to existing or proposed structures and interferences with utility services.

- b. The necessity of removing a tree to construct proposed improvements in order to allow reasonable economic use of the property.
- c. The relief of the land where the tree is located and the effect removal of the tree would have on erosion, soil moisture retention, diversion, increased or decreased flow of surface waters and the city master drainage plan or similar plan adopted by the city commission.
- d. The number and density of trees existing in the neighborhood on improved or unimproved property. The planning and building division shall also be guided by the effect removal of a tree would have on property values in the neighborhood where the property is located and on other vegetation in the neighborhood.
- e. Whether the tree has been designated a significant tree.

(...)

- (e) Issuance of permit. The planning and building division shall issue the removal permit for trees not identified as significant trees under section 11-27 unless, upon consideration of the criteria set forth above, it finds any of the following will result:
  - (1) That the property owner or agent will not be unreasonably affected in shifting the location of the proposed structure, building or improvement, which shift will maintain the existence of the subject trees and still permit construction of such building or improvement on the site.
  - (2) That the property owner or agent will not be unreasonably affected in modifying the design of the proposed structure, building or other improvement, which modification will maintain the existence of the trees proposed to be removed and still permit construction substantially similar to that originally proposed.
  - (3) That the removal of the subject trees will have a substantial adverse impact on the urban and natural environment.
  - (4) That the subject trees are significant trees and removal must be reviewed by the planning and zoning board.

Section 2. Amendment to Chapter 25, Article III, Section 25-52. Chapter 25, Article III, Section 25-52 is hereby amended, as follows:

**Sec. 25-52. - Definitions.**

As used in this article, unless otherwise stated, the following words shall have a meaning as indicated herein:

(...)

Significant tree means a tree defined as a significant tree in chapter 11.

(...)

Section 3. Amendment to Chapter 25, Article III, Section 25-58. Chapter 25, Article III, Section 25-58 is hereby amended, as follows:

**Sec. 25-58. - Variances and conservation overlay zone development review.**

The city planning and zoning board may grant a variance to the requirements of this article where compliance would be a practical impossibility or would cause unnecessary hardship or where the owner proposes an alternative which conforms to the general intent and spirit of these regulations. When reviewing applications and site plans associated with applications for variances or conservation overlay zone developments or for the removal of significant trees involved with a site plan for new development, the planning and zoning board shall have the authority to locate structures, parking areas and other improvements to retain significant trees when possible and practical. The planning and zoning board shall approve or deny the site plan and may impose conditions as required, such as specific tree species and sizes for the required replacement trees. Under no circumstances may the board deny fair and reasonable use of the property, but the granting of a variance or conservation overlay zone development may be contingent upon retaining significant trees. Procedures for variances and conservation overlay zone development review shall be in accordance with chapter 28. Standards and criteria for conservation overlay zone development review shall be in accordance with chapter 11.

Section 4. The City Planning and Building Director is hereby authorized and directed to change the City of St. Augustine Municipal Code of Ordinances, Section 11-27, Section 11-28(c), Section 11-28(d), Section 11-29, Section 11-29(d), Section 11-29(d)(1)(e), Section 11-29(e), Section 11-29(e)(4), Section 25-52 and Section 25-58, for the City of St. Augustine, Florida.

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. If any section, subsection, sentence, clause, phrase or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 7. This ordinance shall be effective ten (10) days after adoption.

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**PASSED** by the City Commission of the City of St. Augustine, Florida, this \_\_\_\_\_  
day of \_\_\_\_\_, 2019.

ATTEST:

\_\_\_\_\_  
Nancy Shaver, Mayor-Commissioner

\_\_\_\_\_  
Darlene Galambos, City Clerk

(SEAL)