



SUBJECT: Amending the tree ordinance and add grand tree regulations

ACTION REQUESTED: Approval/Denial of Ordinance No. 2021-18, upon first reading

REQUESTED BY: Marcie Stenmark, AICP, Community Development Director

SUPPORTING DOCUMENTS: Yes

SUMMARY

As part of their goal setting in 2020, the City Commission requested a discussion regarding adding a grand tree ordinance back into the Land Development Code. A summary of ordinances and actions related to trees since 2007 is below:

- On November 19, 2007, the City Commission adopted a grand tree ordinance (2007-22). City staff oversaw enforcement of the grand tree ordinance. Pinellas County oversaw tree permitting for protected trees other than grand trees within the city.
- On March 16, 2015, the City Commission, adopted a series of ordinances (Ord. No. 2015-02 through Ord. No. 2015-07) that constituted the "Tree Ordinance". The grand tree ordinance was repealed.
- In March of 2015, the city hired a City Arborist.
- On May 4, 2015, the City Commission adopted Ordinance No. 2015-09 which established lower tree replacement fee for properties with a homestead exemption.
- On August 20, 2018, the City Commission adopted Ordinance No. 2018-13. This amendment was recommended by staff to improve the functionality of the ordinance.
- In July of 2019, Section 163.045, Florida Statutes became effective to prohibit local governments from requiring notices, applications, approvals, permits, fees, or mitigation for the pruning, trimming, or removal of trees on residential property if a property owner obtains documentation from a certified arborist or licensed landscape architect that the tree presents a danger to persons or property.
- On December 7, 2020, the City Arborist presented a list of recommended amendments to improve the functionality of the ordinance.

The draft ordinance:

- 1) Updates tree and shrub size requirements for consistency with industry standards.
- 2) Modifies pruning standards for consistency with industry standards.
- 3) Establishes deadlines for replants and payments into the tree fund.
- 4) Expands tree protection plan requirements during construction to include all protected trees on a property and within 25 feet of a property.
- 5) Updates the ornamental tree list to add the Japanese Blueberry tree species.

6) Adds grand tree regulations.

A City Commission workshop was held on June 7, 2021 to discuss a potential ordinance and a City Commission discussion was held on September 20, 2021 to review the draft ordinance language. The agenda back up includes the prior grand tree ordinance (repealed) and the proposed grand tree ordinance.

The Planning and Zoning Board reviewed the draft ordinance on November 10, 2021 and recommended approval.

Staff finds the ordinance meets the standards for review of amendments in Land Development Code Section 226.03 and recommends approval, approval with modifications or denial of Ordinance 2021-18, upon first reading.

Legal Ad: A legal ad is required prior to second reading.

To view legal ads, visit:

<http://fl-safetyharbor3.civicplus.com/59/Legal-NoticesElections>

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ORDINANCE NO. 2021-18

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SAFETY HARBOR, FLORIDA, AMENDING THE SAFETY HARBOR COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE ARTICLE X, SECTION 154.02 TO UPDATE TREE SIZE REQUIREMENTS, SECTION 153.02 TO MODIFY PRUNING STANDARDS, SECTION 153.07 TO CLARIFY DEADLINES FOR REPLANTING AND PAYMENT INTO THE TREE FUND, SECTION 153.08 TO ADD TREE PROTECTION PLAN REQUIREMENTS, SECTION 154.02 TO UPDATE THE ORNAMENTAL TREE LIST; CREATING THE SAFETY HARBOR COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE ARTICLE X, SECTIONS 153.12, 153.13, 153.14, 153.15, 153.16, AND 153.17 TO ADOPT GRAND TREE REGULATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLICATION IN ACCORDANCE WITH THE REQUIREMENTS OF LAW; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 163.3202, Florida Statutes, requires each local government in the State of Florida to adopt land development code regulations that are consistent with and to implement its adopted Comprehensive Plan; and

WHEREAS, the City of Safety Harbor has previously adopted a land development code; and

WHEREAS, the City of Safety Harbor desires to modify data requirements and to expand the ornamental tree list; and

WHEREAS, the Japanese Blueberry (*Elaeocarpus decipiens*) tree species is an ornamental tree that is suitable for this region in Florida; and

WHEREAS, the City of Safety Harbor desires to adopt grand tree regulations; and

WHEREAS, the City Commission finds that adoption of this Ordinance is consistent with its police powers and will protect the public health, safety, and welfare of the residents of the City, and is consistent with, furthers and implements the purposes, goals, policies, and objectives of the City's adopted Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SAFETY HARBOR, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED THAT:

SECTION 1. The above recitals are true, correct, and incorporated by reference as the findings of the City.

SECTION 2. Article X, Section 154.02 of the Safety Harbor Comprehensive Zoning and Land Development Code is hereby amended as follows:

154.02 Plant material.

(A) All trees shall have a minimum of two-inch trunk diameter measured ~~twelve (12)~~ six inches above grade, a minimum crown of four (4) feet, minimum height of eight (8) feet upon planting, and a minimum nursery grade of Florida #1 or better according to current edition of *Grades and Standards for Nursery Plants*, published by the Florida Department of Agriculture and Consumer Services Division of Plant Industry. Trees shall be selected from the approved species listed in Tables X-1 or X-2 unless alternative planting material is authorized by the Community Development Director. No more than twenty-five (25) percent of new required trees shall be of a single species of tree or palms. Existing trees which are preserved and new trees which are provided in excess of the required number of trees shall not be subject to this limitation. Plant material should be selected based on its compatibility with current and anticipated site conditions. Priority should be given to native species.

SECTION 3. Article X, Section 153.02(F) of the Safety Harbor Comprehensive Zoning and Land Development Code is hereby amended as follows:

153.02 Maintenance and pruning of protected trees for all properties within the city.

...

(F) Any individual or entity performing Pruning or other tree maintenance activities for hire shall conform to industry techniques as specified by the American National Standards Institute (ANSI) A300 ~~Part 4: Tree, Shrub and other Woody Plant Maintenance Standard Practices (pruning) or Best Management Practices Pruning, second edition Parts 1-10~~ Flush cuts (pruning cuts that remove the branch collar) and stub cuts (pruning that leaves a limb stub) are improper pruning techniques and are prohibited.

SECTION 4. Article X, Section 153.07(D) of the Safety Harbor Comprehensive Zoning and Land Development Code is hereby amended as follows:

153.07 Permit conditions.

...

(D) Except as specifically provided in this Section, all Protected Trees Removed pursuant to a Tree Removal Permit shall be replaced as follows: Tree Replacement Ratio based on the DBH inch of Protected Tree Removed or, where a suitable location for replanting on the property is not available, a fee in lieu thereof shall be paid in the amount calculated pursuant to subsections (1) through (8) below. Replacement trees shall be of a size as outlined in Section 154.02(A) and (B). Payments into the tree fund are due at time of tree removal permit issuance. Replacement trees for sites that are not associated with a building permit for new development are required to be planted within three months of tree removal permit issuance. Replacement trees for sites that are associated with a building permit for new development are required to be planted prior to the issuance of a Certificate of Occupancy. If replacement trees are installed on developed properties, the applicant shall guarantee the survival of the replacement trees and a follow-up, on-site inspection by City Staff at yearly intervals for two (2) years after planting may be conducted to ensure compliance. All replacement trees shall be regulated as Protected Trees regardless of whether they are less than four (4) inches at DBH. Replacement Trees shall be planted within three (3) months of the issuance of the Tree Removal Permit.

...

SECTION 5. Article X, Section 153.08(J) the Safety Harbor Comprehensive Zoning and Land Development Code is hereby amended as follows:

153.08 Tree protection during construction.

All development and redevelopment on parcels shall comply with the following tree protection requirements:

...

(J) ~~If it is determined that construction impacts will cause significant damage to any Protected Tree to cause the tree to become hazardous, or cause the tree to be Effectively Removed, or for any live oak with a dbh at or greater than 26",~~ the City shall require the submittal of a tree preservation plan for all protected trees on property and within twenty-five (25) feet of the property prepared by an approved arborist prior to commencement of construction. The tree preservation plan shall describe how the construction impacts will be mitigated.

SECTION 6. Article X, Section 154.02, Table X-1 of the Safety Harbor Comprehensive Zoning and Land Development Code is hereby amended as follows:

TABLE X-1: APPROVED SPECIES LIST FOR SHADE AND ACCENT TREES								
* Indicates Protected Tree under Section 153.00 et seq.								
Scientific Name	Botanical Name	Native	Use	Soil	Drought	pH	Light	Salt
<i>Acacia farnesiana</i>	Sweet Acacia, Huisache	YES	A	X-M	HIGH	AC-AL	SUN	MOD
<i>Acer rubrum</i> *	Red Maple*	YES	ST	M-H	MOD	AC	SUN /PS	LOW
<i>Callistemon citrinus</i>	Bottlebrush, Red Bottlebrush	NP	A	X-M	HIGH	AC-AL	SUN	MOD
<i>Callistemon viminalis</i>	Weeping Bottlebrush	NO	A	X-M	MOD	AC-SA	SUN	MOD
<i>Carya glabra</i> *	Pignut Hickory*	YES	ST	X-M	HIGH	AC-SA	SUN /PS	MOD
<i>Carya illinoensis</i> *	Pecan*	YES	ST	X-M	HIGH	AC-AL	SUN /PS	LOW
<i>Celtis laevigata</i> *	Sugarberry*	YES	ST	M-H	HIGH	AC-AL	SUN /PS	HIGH
<i>Diospyros virginiana</i> *	Persimmon, Common Persimmon*	YES	ST	M	HIGH	AC-AL	SUN /PS	HIGH
<u><i>Elaeocarpus decipiens</i></u>	<u>Japanese Blueberry</u>	<u>No</u>	<u>A</u>	<u>All</u>	<u>Mod</u>	<u>AC-AL</u>	<u>SN-PS</u>	<u>Unk.</u>

TABLE X-1: APPROVED SPECIES LIST FOR SHADE AND ACCENT TREES

* Indicates Protected Tree under Section 153.00 et seq.

Scientific Name	Botanical Name	Native	Use	Soil	Drought	pH	Light	Salt
<i>Eriobotrya japonica</i>	Loquat	NO	ST	X-M	MOD	AC-AL	SUN/PS	MOD
<i>Ilex cassine</i> *	Dahoon Holly*	YES	ST	M-H	MOD	AC-SA	SUN/PS/SH	MOD
<i>Ilex cornuta</i> "Burfordii"	Burford Holly	NO	A	M	HIGH	AC-AL	SUN/PS	MOD
<i>Ilex opaca</i> *	American Holly*	YES	ST	M	HIGH	AC-SA	SUN/P/SHS	HIGH
<i>Ilex vomitoria</i> Cultivars	Yaupon Holly, Tree Yaupon, Weeping Yaupon Holly	YES	A	X-M	HIGH	AC-AL	SUN/PS/SH	HIGH
<i>Juniperus silicicola</i> or <i>virginiana</i> Cultivars*	Southern Redcedar, Eastern Redcedar*	YES	ST-A	X-M	HIGH	AC-AL	SUN/PS	HIGH
<i>Lagerstroemia indica</i> Cultivars	Crape Myrtle	No	A	X-M	HIGH	AC-AL	SUN	MOD
<i>Ligustrum japonicum</i>	Japanese Privet, Wax Privet, Wax-Leaf Privet	NO	A	X-M	HIGH	AC-SA	SUN/PS	MOD
<i>Liquidambar styraciflua</i> *	Sweetgum*	YES	ST	M-H	MOD	AC-SA	SUN/PS	MOD

TABLE X-1: APPROVED SPECIES LIST FOR SHADE AND ACCENT TREES

* Indicates Protected Tree under Section 153.00 et seq.

Scientific Name	Botanical Name	Native	Use	Soil	Drought	pH	Light	Salt
<i>Magnolia grandiflora</i> Cultivars*	Southern Magnolia, Magnolia*	YES	ST-A	X-M	MOD	AC-SA	SUN/PS	HIGH
<i>Magnolia virginiana</i> *	Sweetbay, Swamp Magnolia*	YES	ST	H	LOW	AC	SUN/PS	LOW
<i>Myrica cerifera</i>	Wax Myrtle	YES	A	X-M	MOD	AC-AL	SUN/PS	HIGH
<i>Nerium oleander</i> Cultivars	Oleander	NO	A	X-M	HIGH	AC-AL	SUN/PS	MOD
<i>Nyssa sylvatica</i> *	Blackgum, Black Tupelo*	YES	ST	M-H	HIGH	AC	SUN/PS	MOD
<i>Peltophorum pterocarpum</i>	Yellow Poinciana	NO	ST	M	HIGH	AC-AL	SUN	LOW
<i>Pinus elliottii</i> *	Slash Pine*	YES	ST	X-M	HIGH	AC-SA	SUN/PS	HIGH
<i>Pinus palustris</i> *	Longleaf Pine*	YES	ST	X-M	HIGH	AC-SA	SUN	HIGH
<i>Pinus taeda</i> *	Loblolly Pine*	YES	ST	M	MOD	AC	SUN	MOD
<i>Platanus occidentalis</i> *	Sycamore*	YES	ST	M-H	MOD	AC-AL	SUN	MOD
<i>Podocarpus macrophyllus</i>	Podocarpus Tree, Yew, Japanese Yew	NO	A	X-M	HIGH	AC-AL	SUN/PS	HIGH

TABLE X-1: APPROVED SPECIES LIST FOR SHADE AND ACCENT TREES

* Indicates Protected Tree under Section 153.00 et seq.

Scientific Name	Botanical Name	Native	Use	Soil	Drought	pH	Light	Salt
<i>Prunus angustifolia</i>	Chickasaw Plum	YES	A	X-M	HIGH	AC-AL	SUN/PS	LOW
<i>Prunus caroliniana</i>	Cherry Laurel	YES	A	X-M	HIGH	AC-SA	SUN/PS	MOD
<i>Quercus geminata</i>	Sand Live Oak	YES	ST	X-M	HIGH	AC	FS/PS	LOW
<i>Quercus laurifolia</i>	Laurel Oak, Diamond Leaf Oak	YES	ST	M-H	MOD	AC-SA	FS/PS	LOW
<i>Quercus laevis</i>	Turkey Oak	YES	ST	X	HIGH	AC	FS	LOW
<i>Quercus nigra</i>	Water Oak	YES	ST	M-H	MOD	AC-SA	SUN/PS	LOW
<i>Quercus virginiana</i> Cultivars*	Live Oak*	YES	ST	X-M	HIGH	AC-AL	SUN/PS	HIGH
<i>Raphiolepis umbellata</i>	Round-Leaf Hawthorn, Yedda Hawthorn	NO	A	X-M	MOD	AC-AL	SUN/PS	MOD
<i>Taxodium ascendens</i> *	Pond Cypress*	YES	ST	H	HIGH	AC-SA	SUN/PS	MOD
<i>Taxodium distichum</i> *	Bladcypresses*	YES	ST	M-H	MOD	AC-SA	SUN/PS	MOD
<i>Ulmus alata</i>	Winged Elm	YES	ST	M-H	HIGH	AC-AL	SUN/PS	MOD

TABLE X-1: APPROVED SPECIES LIST FOR SHADE AND ACCENT TREES

* Indicates Protected Tree under Section 153.00 et seq.

Scientific Name	Botanical Name	Native	Use	Soil	Drought	pH	Light	Salt
<i>Ulmus Americana*</i>	American Elm*	YES	ST	M-H	HIGH	AC-AL	SUN/PS	MOD
<i>Ulmus Americana var. floridana</i>	Florida Elm	YES	ST	M-H	MOD	AC-AL	SUN/PS	MOD
<i>Ulmus parvifolia</i> Cultivars	Chinese Elm	NO	ST	X-M	HIGH	AC-AL	SUN/PS	MOD
<i>Viburnum obovatum</i>	Walter's Viburnum, Blackhaw	YES	A	M	HIGH	AC-AL	PS	LOW

SECTION 7. Article X, Section 154.02(C) of the Safety Harbor Comprehensive Zoning and Land Development Code is hereby amended as follows:

(C) All shrubs shall ~~have a minimum height of eighteen (18) inches and minimum twelve (12) inch spread with a three (3) gallon container upon planting,~~ being Florida #1 grade or better. Hedges, where required, shall form a continuous, unbroken, solid visual screen within one (1) year of planting, being maintained thereafter to specification. Shrubs shall be selected from the approved species listed in Table X-3 unless alternative planting material is authorized by the Community Development Director.

SECTION 8. Article X, Section 153.12 of the Safety Harbor Comprehensive Zoning and Land Development Code is hereby created and shall read as follows:

153.12 Grand Trees

(A) Intent: The City Commission finds that Grand Trees as defined herein increase the value of properties where they grow and provide superior aesthetic and ecological benefits to these properties and the surrounding community and as such are a valuable natural resource that enhance the quality of life and the general welfare of the citizens of Safety Harbor. It is the intent of the City Commission to encourage the protection of the maximum number of Grand Trees within the City by regulating

the performance of activities that may adversely impact the condition of a Grand Tree or cause its unwarranted removal.

- (B) Applicability: Any site where new construction is proposed, or land alteration is to occur is required to have each tree that meets the minimum requirements of species and trunk diameter for a Grand Tree graded by an Approved Arborist for overall condition and scored for total points to determine if the tree is a Grand Tree. The grand tree scoring worksheets shall be maintained by the City Arborist. The calculations for all trees meeting the species and trunk diameter requirements for a Grand Tree must be provide even if the tree does not have the requisite condition rating or total points to attain Grand Tree status. The calculations are due at the time of first submittal for projects requirement site plan approval. For projects not requiring site plan approval, the calculations are due at the time the application is made for a land alteration permit or building permit. The City retains the right to reject Grand Tree assessments that are incomplete or do not adhere to current industry standards for tree assessment.

SECTION 9. Article X, Section 153.13 of the Safety Harbor Comprehensive Zoning and Land Development Code is hereby created and shall read as follows:

153.13. Evaluation of Grand Tree status.

- (A) To achieve the designation of a Grand Tree a tree must meet the minimum qualifications defined below.
- (1) The following tree species shall be considered for Grand Tree Status:
 - a) Live Oak (*Quercus virginiana*)
 - b) Sand live oak (*Quercus geminata*)
 - c) Southern magnolia (*Magnolia grandiflora*)
 - d) Sweetbay (*Magnolia virginiana*)
 - e) Bald cypress (*Taxodium distichum*)
 - f) Pignut hickory (*Carya glabra*)
 - g) American elm (*Ulmus americana*)
 - h) Southern red cedar (*Juniperus silicicola*)
 - i) Longleaf pine (*Pinus palustris*)
 - j) Slash pine (*Pinus elliottii*)
 - (2) The tree must have a minimum trunk DBH of at least 26 inches to be a candidate for Grand Tree status.
 - (3) The tree must have a condition rating of 3.5 or greater, as established in Section 153.05(C)(3).
 - (4) The tree must accumulate the number of points based on the Grand Tree Worksheet and summarized below:

- a) Measure the tree's trunk diameter in inches at DBH.
- b) Measure in feet the widest cross section of the tree's crown as projected vertically down to the ground and the narrowest cross section of the crown projected vertically down to the ground. Add the total feet for both measurements and divide by two to get the average crown spread expressed in feet.
- c) Measure the highest point of the crown using an altimeter, clinometer or other measuring device that will give an accurate measurement in feet of the highest point of the tree's crown.
- d) Add the numbers for inches of trunk diameter, feet of the average crown spread, feet for the total height of the tree and add the condition rating and if the point totals equal or exceed the minimum number of total points for the species as defined in the following table, the tree is a grand tree.

<u>Species</u>	<u>Minimum Total Points for Grand Tree Status</u>
<u>Live Oak (<i>Quercus virginiana</i>)</u>	<u>145</u>
<u>Sand live oak (<i>Quercus geminata</i>)</u>	<u>145</u>
<u>Southern magnolia (<i>Magnolia grandiflora</i>)</u>	<u>120</u>
<u>Sweetbay (<i>Magnolia virginiana</i>)</u>	<u>120</u>
<u>Bald cypress (<i>Taxodium distichum</i>)</u>	<u>115</u>
<u>Pignut hickory (<i>Carya glabra</i>)</u>	<u>130</u>
<u>American elm (<i>Ulmus americana</i>)</u>	<u>130</u>
<u>Southern red cedar (<i>Juniperus silicicola</i>)</u>	<u>115</u>
<u>Longleaf pine (<i>Pinus palustris</i>)</u>	<u>115</u>
<u>Slash pine (<i>Pinus elliottii</i>)</u>	<u>115</u>

SECTION 10. Article X, Section 153.14 of the Safety Harbor Comprehensive Zoning and Land Development Code is hereby created and shall read as follows:

153.14 Permit Required.

- (A) Unless exempt pursuant to 153.03, it shall be unlawful for any person to cause any Grand Tree to be removed without first obtaining a Grand Tree Removal Permit.
- (B) Any person wishing to obtain a Grand Tree Removal Permit to remove a Grand Tree shall submit a written Tree Removal Permit Application to the City in the form

approved by the City Manager accompanied by a Tree Removal Application Fee of \$25.00 for residential parcels and \$100.00 for all other parcels, and pay any replacement fees required by Section 153.15(C). The application shall include the following information:

- (1) A site plan drawn to a minimum scale of 1" = 20 feet, of showing the parcels and lots, existing and proposed grades, all proposed structures including buildings, vehicular use areas, walkways, overhead and underground utilities, retention ponds, swales and any other structures on the property.
- (2) All Grand Trees shall be identified on the survey as "GT". Trees proposed for removal shall be identified.
- (3) A tree inventory listing each Grand Tree by size (DBH), species (botanical and common name).
- (4) A Grand Tree Worksheet for each grand tree.
- (5) An explanation as to how the proposed Grand Tree Removal meets the criteria in Section 154.14(C) for each tree proposed to be removed.
- (C) The application shall be field checked by the City Arborist or by an approved arborist hired by the city to determine if the tree(s) proposed for removal achieve the designation of a Grand Tree as defined in Section 153.13. A Grand Tree may be removed from a site when one or more of the following criteria are met:
 - (1) The Grand Tree(s) to be removed pose a safety hazard to pedestrians or vehicular traffic, threaten to cause disruption of public services or utility services, pose a safety hazard to persons or buildings or are within the visibility triangle;
 - (3) The Grand Trees to be Removed must be Removed in order to construct improvements that are proposed as a result of:
 - (a) Need for access immediately around the proposed structure for construction equipment;
 - (b) Need for access to the building site for construction equipment;
 - (c) Essential grade changes;
 - (d) Surface water drainage and utility installations; or
 - (e) Location of primary building pad, primary foundation line, swimming pool, patio pad, or that portion of the driveway within the path of the garage or carport entrance, and these structures cannot be relocated.
 - (4) Staff finds it to be in the interest of the general public's health, safety and welfare that the tree be removed.
- (D) The City Arborist shall review the Grand Tree Removal Permit application and provide the applicant with written notification of the city's approval or denial of the permit application for each tree requested for removal within 21 calendar days of receipt of the completed permit application. Upon the determination that a tree(s)

being requested for removal on a Grand Tree Removal Permit application is to be denied, the City Manager shall state the basis for such a denial citing the specific criteria for removal as enumerated herein and shall notify the applicant, in writing, of their right to appeal the decision.

- (E) An approved Grand Tree Removal permit shall be valid for a period of one hundred eighty (180) days from the issuance date. If the tree(s) has not been removed by the end of the one hundred eighty (180) day period, then the existing permit shall expire and a new application must be filed if the applicant still desires to remove the tree(s). The City will have the option to re-inspect the tree(s) to determine if the tree(s) still warrant removal based on the current criteria in Section 153 .00. et seq. or the City can choose to approve the new permit request based on the former decision to grant the permit.
- (F) If a Grand Tree is located at a site that will be impacted by development related activities, but the activities will not necessitate the removal of the Grand Tree, then a No Grand Tree Removal Verification Form must be completed. The trees identified on the form shall be provided protection e.g., tree barricades. as provided herein.

SECTION 11. Article X, Section 153.15 of the Safety Harbor Comprehensive Zoning and Land Development Code is hereby created and shall read as follows:

153.15 Mitigation standards for removal of a Grand Tree

- (A) When a Grand Tree is approved for removal, the tree shall be replaced with new tree plantings per the following replacement ratios:

<u>Trunk diameter (DBH) removed</u>	<u>Replacement Ratio</u>
<u>26" – 40"</u>	<u>3:1</u>
<u>41" – 50"</u>	<u>4:1</u>
<u>51" or greater</u>	<u>5:1</u>

- (B) The replacement trees shall be of a species from the list in Section 153.13(A)(4)(D) and be Florida Grade #1 or better as defined in the Florida Division of Plant Industry's Florida Grades and Standards for Nursery Stock. If replacement trees are installed, the applicant shall guarantee the survival of the replacement trees for a period of two years after inspection and approval by the City. The trees must be maintained in a healthy growing condition, or the applicant shall continue to plant new trees at the location until the required numbers of replacement trees are established. Failure to comply with these provisions will subject the applicant to

civil remedy penalties as defined in Section 153.10. Where a suitable location for replanting on the property is not available, a fee in lieu thereof shall be paid. Payments into the tree fund are due at time of tree removal permit issuance. Replacement trees for sites that are not associated with a building permit for new development are required to be planted within three months of tree removal permit issuance. Replacement trees for sites that are associated with a building permit for new development are required to be planted prior to the issuance of a Certificate of Occupancy. A combination of new tree plantings and payment to the tree bank is acceptable.

Fees collected in lieu of replacement shall be placed in the "City Tree Bank" as described in Section 153.07(D).

Grand Tree removals shall be subject to the Inch Per Inch Tree Removal fees in Section 153.07(D). In addition, a flat fee shall be paid into the "City Tree Bank" of \$1,500 for properties with a homestead exemption and \$3,000 for all other properties.

- (C) Failure to comply with these provisions will subject the applicant to penalties under this Section 153.10 and all applicable civil penalties as well as replanting and additional monitoring of replacement trees if necessary.

SECTION 12. Article X, Section 153.16 of the Safety Harbor Comprehensive Zoning and Land Development Code is hereby created and shall read as follows:

153.16 Prohibited Acts, Penalties, Civil Remedy

- (A) It shall be unlawful for any person, without having first obtained a permit as provided herein, to remove, cut down, damage, poison, effectively remove through excessive injury, or to cause to be removed, cut down, damaged, poisoned or effectively removed through excessive injury any Grand Tree and it shall be unlawful for any person to damage or cause to be damaged a Grand Tree by performing improper maintenance to a Grand Tree as defined herein. Any person(s) found guilty of such actions will be liable for the penalties provided in subsection B, or for such other fines or penalties as provided by law.
- (B) The city may seek through civil action a civil penalty from any person who removes or effectively removes or causes to be removed a Grand Tree without first obtaining a permit or who damages a Grand Tree as described in Section 153.05 A, above. The person shall pay to the City a civil penalty equal to the total value of the tree(s) illegally removed or damaged. The value shall be determined according to the

appraisal methodologies as established in the Council of Tree and Landscape Appraisers' current edition of the Guide For Plant Appraisal, edited, published and copyrighted by the International Society of Arboriculture. This remedy is supplemental to any other remedies or enforcement actions the City may have to enforce the provisions of Section 153.00, et seq.

SECTION 13. Article X, Section 153.17 of the Safety Harbor Comprehensive Zoning and Land Development Code is hereby created and shall read as follows:

153.17 Grand Tree Maintenance and Tree Preservation Plans.

- (A) Any maintenance performed on a Grand Tree shall be subject to the minimum standards of Section 153.02. When the critical root zone of a grand tree will be disturbed affected roots must be severed by clean pruning cuts at the point where construction impacts the roots. Roots can be pruned by utilizing a root-pruning machine designed for this purpose or by hand digging a trench and pruning roots with a pruning saw, chain saw, or other equipment designed for tree pruning. Roots located within the critical root zone that will be impacted by construction, must be pruned to a depth of 18 inches below the existing grade or to the depth of disturbance if less than 18 inches from the existing grade.
- (B) Any activities that will impact the critical root zone of a Grand Tree such as excavations for utilities or irrigation lines, open trenching, grubbing of rooted vegetation, addition of fill material, heavy equipment traversing over the critical root zone, or any and all other activities that will impact the critical root zone must be performed under the direct supervision of a Certified Arborist.
- (C) Prior to conducting maintenance on limbs of a Grand Tree that measure 6 inches or more in diameter measured at the base of the limb, a Certified Arborist shall submit an affidavit detailing any work of an arboricultural nature that will be performed on the tree.
- (D) All development or redevelopment on parcels where a Grand Tree is located shall comply with the tree protection during construction requirements of Section 153.08.
- (E) Any violations of Section 153.12 through 153.17 shall be subject to the penalties and civil remedy provisions set forth in Section 153.16.

SECTION 14. This Ordinance shall be published in accordance with the requirements of law.

SECTION 15. This Ordinance shall be codified and made part of the Safety Harbor Comprehensive Zoning and Land Development Code.

SECTION 16. Each provision of this Ordinance shall be deemed separate and severable and if any section or part thereof is held to be invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

SECTION 17. This Ordinance shall become effective immediately upon its passage and adoption.

PASSED ON FIRST READING _____, 2022.

PASSED ON SECOND AND FINAL READING _____, 2022.

APPROVED AS TO FORM:

Nikki C. Day, City Attorney

ATTEST:

Karen Sammons, CMC, City Clerk

Mayor – Commissioner

Vice Mayor – Commissioner

Commissioner

Commissioner

Commissioner

ORDINANCE NO. 2007 - 22

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SAFETY HARBOR, FLORIDA, AMENDING THE CITY OF SAFETY HARBOR CITY COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE BY AMENDING ARTICLE X, SECTION 153.00, TREE PROTECTION AND HABITAT MANAGEMENT, AND PROVIDING FOR PUBLICATION IN ACCORDANCE WITH THE LAW AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission has determined that Grand Trees within the City of Safety Harbor are valuable natural resources that enhance the quality of life and the general welfare of the citizens of Safety Harbor; and

WHEREAS, the City Commission desires to protect the Grand Trees within the City;
and

WHEREAS, the City Commission desires to adopt a Grand Tree Ordinance to protect the Grand Trees within the City.

NOW, THEREFORE, BE IT ORDERED BY THE CITY COMMISSION OF THE CITY OF SAFETY HARBOR, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED THAT:

Section 1: Article X, Section 153.00 of the City of Safety Harbor City Comprehensive Land Development Code is hereby amended to read as follows:

Section 153.00. Tree Protection and Habitat Management GRAND TREES

A. Consistency: All development within the City shall be subject to the rules and regulations of the Pinellas County Habitat Management Ordinance, as may be amended from time to time, in accordance with the memorandum of understanding between Pinellas County and Safety Harbor, except as that Ordinance relates to Grand Trees as defined below and except to the extent inconsistent with Section 153.00, et seq.

~~**(B) All associated permits and approvals shall be obtained from Pinellas County .**~~

B. Intent: The City Commission finds that Grand Trees as defined herein increase the value of properties where they grow and provide superior aesthetic and ecological benefits to these properties and the surrounding community and as such are a valuable natural resource that enhance the quality of life and the general welfare of the citizens of Safety Harbor. It is the intent of the City Commission to encourage the protection of the maximum number of Grand Trees within the City by regulating the performance of activities that may adversely impact the

condition of a Grand Tree or causing its unwarranted removal.

C. Applicability: Any site where new construction is proposed or land alteration is to occur is required to have each tree that meets the minimum requirements for species and trunk diameter for a Grand Tree graded by an Approved Arborist for overall condition and scored for total points to determine if the tree is a Grand Tree, using required forms provided in Appendices "A" and "B." The calculations for all trees meeting the species and trunk diameter requirements for a Grand Tree must be provided even if the tree does not have the requisite condition rating or total points to attain Grand Tree status. The calculations are due at the time of first submittal for projects requiring site plan approval. For projects not requiring site plan approval, the calculations are due at the time application is made for a land alteration permit or building permit. The City retains the right to reject Grand Tree assessments that are incomplete or do not adhere to current industry standards for tree assessment.

Section 2: The Safety Harbor Comprehensive Zoning and Land Development Code is hereby amended by adding a section, Section 153.01, which shall read as follows:

Section 153.01. Definitions:

A. The following terms as used in Sections 153.00 through Section 153.10 shall have the meanings provided below:

1. Accent tree: A self – supporting woody plant that normally grows to a minimum height of 15 feet and an overall height of less than 35 feet and that can be maintained with over eight feet of clear trunk.

2. American National Standards Institute (ANSI): A private, not for profit organization with the stated mission "To enhance both the global competitiveness of U.S. business and the U.S. quality of life by promoting and facilitating voluntary consensus standards and conformity assessment systems, and safeguarding their integrity". The ANSI has developed standards for pruning, fertilization, support systems, and other components of tree care in the publication, *ANSI A300, The American National Standard for Tree Care Operations – Tree, Shrub, and Other Woody Plant Maintenance – Standard Practices.*

3. Approved Arborist: A person currently recognized as a Certified Arborist by the International Society of Arboriculture (ISA) or a Consulting Arborist by the American Society of Consulting Arborists (ASCA).

4. Arboriculture: The science of comprehensive tree maintenance.

5. Best management practices: A publication of the ISA and a companion publication to the ANSI A300 series with the intent to "aid in the interpretation and implementation of the ANSI A300 standards".

6. Caliper: The standard nursery measurement for diameter in inches of a single - stemmed tree trunk measured 12 inches above grade for trees four inches at DBH or greater and six inches above grade for trees less than four inches at DBH.

7. City: The City of Safety Harbor.

8. City Manager: The City Manager for the City of Safety Harbor or any person designated to act in his/her stead.

9. Critical root zone (CRZ): The greater area between the ground area within a tree's drip-line or an area equivalent to a radius from the tree trunk of 12 inches for each diameter inch of trunk measured at 54 inches above grade.

10. Crown: All branches of a tree including the stems, twigs and foliage.

11. Diameter at breast height (DBH): The standard measurement for the trunk diameter, in inches, of a single stemmed tree measured at 54 inches above grade. The DBH of a multi-stemmed accent tree shall equal the sum total of the diameter of all stems measured at 54 inches above grade. The DBH of a multi-stemmed shade tree shall be measured at the narrowest trunk area between 54 inches above grade and grade.

12. Drip line: An imaginary line along the ground that conforms to the perimeter of the crown of a tree as projected vertically to the ground.

13. Effective removal: Any activity that adversely affects the health or structure of a Grand Tree creating in the opinion of the City the probability that the tree will suffer a significant decline in its overall condition.

14. Grand Tree: A tree that meets the species, trunk diameter size and overall condition requirements for a Grand Tree and has accumulated a sufficient number of points necessary for Grand Tree status as defined in Section 153.02.

15. Grubbing: The removal of rooted vegetation from the soil by hand labor or with machinery or otherwise disturbing the soil in which rooted vegetation is growing. Any excavation activity shall be considered as grubbing.

16. Hazardous tree: A tree that in the opinion of the City, constitutes a hazard to life, or has a significant potential to cause injury to persons or damage to property because the tree is in imminent danger of falling, or otherwise creates a hazard. A hazardous tree shall include but not be limited to dead, declining, diseased, broken, split, cracked, leaning and uprooted trees and trees judged by the City to have serious structural defects. A hazardous tree also shall include a tree harboring communicable diseases or insects of a type that the City determines could infest and cause the decline of

nearby trees.

17. **Heavy machinery:** Mechanical land clearing, earth moving or earth working equipment with a gross weight in excess of five thousand (5,000) pounds. All machinery that utilizes steel tracks shall be considered to be heavy machinery.

18. **Historic tree:** A tree that has been found to be of value to the City because of its historic association with the community, and has been designated as such by the City Commission.

19. **Improper Pruning:** Pruning that is not in accordance with the standards established in the American National Standard Institute's publication - *The American National Standard for Tree Care Operations – Tree, Shrub, and Other Woody Plant Maintenance – Standard Practices* and the guidelines for pruning as described in the International Society of Arboriculture's publication, *Best Management Practices, Tree Pruning*.

20. **The International Society of Arboriculture (ISA):** The International Society of Arboriculture is a worldwide professional organization "dedicated to fostering a greater appreciation for trees and to promoting research, technology, and the professional practice of arboriculture."

21. **Light machinery:** Hand or mechanically operated equipment used within the critical root zone of protected trees and not meeting the definition of heavy machinery.

22. **Lion tailing:** An improper pruning procedure that removes an excessive amount of foliage from the interior portions of a branch which leaves the foliage tufted at the ends of the branch.

23. **No Grand Tree removal verification form:** A signed notarized statement signed by an authorized applicant for a building permit certifying that no protected Grand Trees exist on site or that although protected Grand Trees exist on site their removal is not required for site development purposes.

24. **Person:** Any individual, partnership, corporation, association or other legal entity, including the plural.

25. **Prohibited tree pruning:** The removal of more than twenty five (25) per cent of a Grand Tree's foliage in one calendar year, and shall apply to all protected Grand Trees. Topping, lion tailing and improper pruning cuts also are prohibited on all protected Grand Trees.

26. **Protective barricade (tree barricade):** A physical structure placed around a protected Grand Tree that complies with the specifications and requirements

relative to tree protection of Section 153.00, et seq. and effectively limits access to the protected area.

27. Remove or removal: The actual removal or causing the effective removal through damaging, poisoning, excessive pruning, or other direct or indirect actions resulting in the death or severe decline of a Grand Tree, without having first procured a tree removal permit.

28. Root pruning: The cutting of tree roots in order to minimize root damage and overall tree stress by using methods that comply with the specifications and requirements of Section 153.00, et seq. or approved by the City.

29. Shade tree: A self-supporting, woody plant that normally grows to a minimum height of 35 feet and has a trunk that can be maintained with over eight feet of clear wood.

30. Specimen tree: Any tree that the City determines to be of high value to the community because of its age, species, size, or other exceptional quality and so designated by the City Commission.

31. Topping: Pruning that reduces the height of a tree by making an inter-nodal heading cut or by making a heading cut back to a lateral branch that is less than one third the size of the cut stem.

32. Tree: An erect standing woody plant, together with its trunk, crown and root system, of a species that normally attains a minimum overall height at maturity of at least 15 feet in the City.

33. Tree Bank: The City Tree Bank shall accrue funds from fines and mitigation payments made to the City under the terms of Section 153.00, et seq. Tree Bank Funds are expressly reserved for the purchase and installation of trees on public property within the corporate limits. Funds also may be used for projects that enhance the City's urban forestry program provided approval is given by the City Manager. The City Manager or his/her designee shall administer the tree bank program and account for funds collected and dispersed.

34. Tree inventory: A written report listing all protected Grand Trees on a site by size, species, location, overall condition rating and total points as provided herein.

35. Tree preservation plan: A plan showing all of the measures that will be utilized to help ensure that a Grand Tree(s) designated for preservation will remain in a healthy growing condition.

amended by adding Section 153.02, which section shall read as follows:

Section 153.02. Evaluation of Grand Tree status: To achieve the designation of a Grand Tree a tree must meet the minimum qualifications defined in A, B and C below.

A. Species. The following tree species shall be considered for Grand Tree status:

- (1) Live oak (*Quercus virginiana*)
- (2) Sand live oak (*Quercus geminata*)
- (3) Laurel oak (*Quercus laurifolia*)
- (4) Southern magnolia (*Magnolia grandiflora*)
- (5) Sweetbay (*Magnolia virginiana*)
- (6) Bald cypress (*Taxodium distichum*)
- (7) Pignut hickory (*Carya glabra*)
- (8) American elm (*Ulmus americana*)
- (9) Southern red cedar (*Juniperus silicicola*)
- (10) Longleaf pine (*Pinus palustris*)
- (11) Slash pine (*Pinus elliottii*)

B. Size. A tree meeting the species requirement for a Grand Tree must have a minimum trunk DBH of at least 26 inches to be a candidate for Grand Tree status. If the tree produces a fork at 4.5 feet at DBH, trunk diameter will be measured at the narrowest area of the trunk between DBH and the existing grade.

C. Condition: A tree must have an overall condition rating of at least 3.5 based on the rating methodology provided in subsections 1 and 2, below to qualify for Grand Tree status. The rating method provides specific criteria utilizing common terminology and characteristics used in the industry for tree assessments and serves as a guideline for establishing an accurate overall condition rating for a tree.

1. Overall condition rating: The overall condition rating of a tree is a rating applied to a tree by an Approved Arborist who is skilled in the art and science of tree assessment and capable of rating a tree's condition following the methodology contained in the City of Safety Harbor Tree Condition Rating Guide referenced in Appendix "A". The overall condition rating takes into consideration the health, structure, form, species and any unique features of the tree. The rating scale is 0 to 6.0 with 0 being a dead tree and 6.0 a specimen tree. Increments of 0.5 are used to increase accuracy. Issues that may affect public safety such as poor structure should be given greater consideration and will downgrade a tree according to the severity of the structural issue. The City of Safety Harbor Tree Condition Rating Guide provides examples of the characteristics of the six condition categories that should be used by the Approved Arborist as a guideline for establishing an overall condition rating. The specific rating of a tree's overall

condition is to be calculated utilizing the City of Safety Harbor Tree Rating System Form referenced in Appendix "B."

2. Points.

(a). To achieve the status of Grand Tree a tree must be of a species as defined in Section 153.02, A, with a minimum trunk diameter as defined in Section 153.02 B, have a minimum condition rating of 3.5 as defined in Subsection 153.02 C.2, and accumulate the minimum number of points per the following formula as defined in (1), (2), (3) & (4) below:

(1). Measure the tree's trunk diameter in inches at DBH or if the tree forks at DBH, then measure the diameter at the narrowest area of the trunk between the fork and existing grade.

(2). Measure in feet the widest cross section of the tree's crown as projected vertically down to the ground and the narrowest cross section of the crown projected vertically down to the ground. Add the total feet for both measurements and divide by two to get the average crown spread expressed in feet.

(3). Measure the highest point of the crown using an altimeter, clinometer or other measuring device that will give an accurate measurement in feet of the highest point of the tree's crown.

(4). Add the numbers for inches of trunk diameter, feet of the average crown spread, feet of the total height of the tree and add the condition rating and if the point totals equal or exceed the minimum number of total points for the species as defined in the following table, the tree is a Grand Tree.

<u>Species</u>	<u>Minimum Total Points for Grand Tree Status</u>
<u>Live oak (<i>Quercus virginiana</i>)</u>	<u>145</u>
<u>Sand live oak (<i>Quercus geminata</i>)</u>	<u>145</u>
<u>Laurel oak (<i>Quercus laurifolia</i>)</u>	<u>155</u>
<u>Southern magnolia (<i>Magnolia grandiflora</i>)</u>	<u>120</u>
<u>Sweetbay (<i>Magnolia virginiana</i>)</u>	<u>120</u>
<u>Bald cypress (<i>Taxodium distichum</i>)</u>	<u>115</u>
<u>Pignut hickory (<i>Carya glabra</i>)</u>	<u>130</u>
<u>Southern red cedar (<i>Juniperus Silicicola</i>)</u>	<u>115</u>
<u>American elm (<i>Ulmus Americana</i>)</u>	<u>130</u>

<u>Species</u>	<u>Minimum Total Points for Grand Tree Status</u>
<u>Longleaf pine (<i>Pinus palustris</i>)</u>	<u>115</u>
<u>Slash pine (<i>Pinus elliottii</i>)</u> <u>Including variety 'Densa'</u>	<u>115</u>

Section 4: The City's Comprehensive Zoning and Land Development Code is hereby amended by adding Section 153.03, which section shall read as follows:

Section 153.03. Permit required:

- A. Application for a permit to remove a Grand Tree.** A property owner desiring to remove a Grand Tree(s) from their property shall file an application for a Grand Tree Removal Permit with the City Manager on a form provided by the City. A fee shall be charged for the issuance of such permit to cover administration costs, which fee shall be paid at the time of application for the permit. A fee schedule for such permit shall be established by resolution of the City Commission. The application shall provide the following information:
1. A site plan drawn to a minimum scale of 1" = 20 feet, of the land involved showing the existing and proposed grades, all proposed structures including buildings, vehicular use areas, walkways, overhead and underground utilities, retention ponds, swales and any other structure pertinent to the removal request of the Grand Tree.
 2. All Grand Trees shall be identified on the tree survey as "GT" and overlaid onto the site plan. Those proposed for removal shall be labeled with an "X".
 3. A tree inventory listing each Grand Tree by size (trunk DBH), species (botanical and common name) and showing the scored evaluation of each Grand Tree, using the form provided in Appendix B.
 4. An explanation as to the reasons for requesting the removal of the subject Grand Tree(s).
- B. Approval or denial of a Grand Tree Removal Permit.** The application with the required information shall be field checked by the City's Arborist or by an Approved Arborist hired by the City. The City's Arborist or the Approved Arborist shall inspect the physical site and the tree to determine if the removal request meets the criteria for Grand Tree removal as defined in Section 153.02. A Grand Tree may only be removed from a site when one or more of the following criteria are met:

1. The tree is located in an area where a structure or improvement may be placed in accordance with the City of Safety Harbor Comprehensive Zoning and Land Development Code, and sufficient evidence, as determined by the City Manager, is provided by the property owner or authorized representative that demonstrates that measures to preserve the tree would increase construction costs by more than 5 percent of the estimated construction costs of the proposed improvement(s) or would prevent reasonable economic use of the property.
2. The City Manager finds that a proposed improvement cannot be reasonably relocated, reconfigured, or reduced in size to preserve an existing Grand Tree(s).
3. The City Manager determines that the tree is hazardous and its retention poses a proximate threat to public safety.
4. The City Manager finds it to be in the interest of the general public's health, safety and welfare that the tree be removed.

The City Manager shall review the Grand Tree Removal Permit application and provide the applicant with written notification of the City's approval or denial of the permit application within 15 calendar days of receipt of the completed permit application. An application that includes more than one Grand Tree(s) shall reference each tree chronologically. The City shall issue its approval or denial decision to correspond with each tree referenced in the application. Upon the determination that a tree(s) being requested for removal on a Grand Tree Removal Permit application is to be denied, the City Manager shall state the basis for such denial citing the specific criteria for removal as enumerated herein and shall notify the applicant, in writing, of their right to appeal the decision.

C. Appeal of denial of a Grand Tree removal Permit. An applicant adversely affected by the City's decision to deny a Grand Tree Removal Permit shall have thirty (30) days to appeal the City's decision to the Board of Appeal. The applicant must file a written appeal to the City Manager stating the reasons for the appeal. The Board of Appeal will hear the request and either uphold the City's denial or overturn the City's decision and approve the permit. If the Board of Appeal overturns the City's denial, the applicant will still be responsible for mitigation requirements as provided herein. The Board of Appeal's decision will be final and may be appealed to Circuit Court only by the filing of a petition for writ of certiorari within thirty (30) days of the Board of Appeal's decision.

D. Duration of a Grand Tree Removal Permit. An approved Grand Tree removal permit shall be valid for a period of one hundred eighty (180) days from the issuance date. If the tree(s) has not been removed by the end of the one hundred eighty (180) day period, then the existing permit shall expire and a new application must be filed if the applicant still desires to remove the tree(s). The City will have the option to re-inspect the tree(s) to determine if the

tree(s) still warrant removal based on the current criteria in Section 153.00, et seq. or the City can choose to approve the new permit request based on the former decision to grant the permit.

E. No Grand Tree Removal Verification Form: If a Grand Tree is located at a site that will be impacted by development related activities but the activities will not necessitate the removal of the Grand Tree, then a No Grand Tree Removal Verification Form must be completed. The trees identified on the form shall be provided protection e.g., tree barricades, as provided herein.

Section 5: The City's Comprehensive Zoning and Land Development Code is hereby amended by adding Section 153.04, which section shall read as follows:

Section 153.04. Mitigation standards for removal of a Grand Tree:

A. Minimum mitigation standards. When a Grand Tree is approved for removal the tree shall be replaced with new tree plantings on a diameter inch replaced for each diameter inch removed basis per the following replacement ratio:

<u>Trunk diameter (DBH) removed</u>	<u>Replacement ratio</u>
<u>26" – 40"</u>	<u>1:1</u>
<u>41" – 50"</u>	<u>1.5:1</u>
<u>51" or greater</u>	<u>2:1</u>

B. The replacement trees shall be of species from the list for the Grand Tree species as noted in Section 153.02. A, and have a minimum trunk caliper of two inches and an overall height of eight feet. In addition, all replacement trees shall be graded as a Florida #1 or greater tree as consistent with the then existing specifications as defined in the Florida Division of Plant Industry's Florida Grades and Standards for Nursery Stock. If replacement trees are installed, the applicant shall guarantee the survival of the replacement trees for a period of two years after inspection and approval by the City. The trees must be maintained in a healthy growing condition or the applicant shall continue to plant new trees at the location until the required numbers of replacement trees are established. Failure to comply with these provisions will subject the applicant to civil remedy penalties as defined in Section 153.05.B, below. If a site does not have adequate space to accommodate the replacement trees, then a fee equal to \$25.00 per diameter inch removed for homesteaded properties or \$100 per diameter inch removed for non-homesteaded properties per the formula in Section 153.04.A. above shall be paid to the City's tree bank by the applicant within sixty (60) calendar days from the issuance of the approved removal permit. Any combination of new tree plantings and payment to the tree bank is acceptable.

Section 6: The City's Comprehensive Zoning and Land Development Code is hereby amended by adding Section 153.05, which section shall read as follows:

Section 153.05. Prohibited Acts , Penalties, Civil remedy:

A. Prohibited Acts: It shall be unlawful for any person, without having first obtained a permit as provided herein, to remove, cut down, damage, poison, effectively remove through excessive injury, or to cause to be removed, cut down, damaged, poisoned or effectively removed through excessive injury any Grand Tree and it shall be unlawful for any person to damage or cause to be damaged a Grand Tree by performing improper maintenance to a Grand Tree as defined herein. Any person(s) found guilty of such actions will be liable for the penalties provided in subsection B, or for such other fines or penalties as provided by law.

B. Civil Remedy. The City may seek through civil action a civil penalty from any person who removes or effectively removes or causes to be removed a Grand Tree without first obtaining a permit or who damages a Grand Tree as described in Section 153.05 A, above. The person shall pay to the City a civil penalty equal to the total value of the tree(s) illegally removed or damaged. The value shall be determined according to the appraisal methodologies as established in the Council of Tree and Landscape Appraisers' current edition of the *Guide For Plant Appraisal*, edited, published and copyrighted by the International Society of Arboriculture. This remedy is supplemental to any other remedies or enforcement actions the City may have to enforce the provisions of Section 153.00, et seq.

Section 7: The City's Comprehensive Zoning and Land Development Code is hereby amended by adding Section 153.06, which section shall read as follows:

Section 153.06. Maintenance of a Grand Tree: Any maintenance performed on a Grand Tree shall be subject to the minimum standards in subsections A, B, & C below.

A. Arboricultural procedures: Any routine maintenance such as pruning, fertilization, cabling and bracing, spraying or any other maintenance activity that will impact the above ground portions of a Grand Tree must be performed by or under the direct supervision of an Approved Arborist with a current Local Business Tax Receipt issued by the City of Safety Harbor and must be performed in accordance with then current industry standards as defined in the ANSI A300 and Best Management Practices publications defined herein.

B. Critical Root Zone (CRZ): Any activities that will impact the critical root zone of a Grand Tree such as excavations for utilities or irrigation lines, open trenching, grubbing of rooted vegetation, addition of fill material, heavy equipment traversing over the critical root zone, or any and all other activities that will impact the critical root zone must be performed under the direct supervision of an Approved Arborist with a current Local Business Tax Receipt with the City of Safety Harbor.

C. Tree Preservation Plan: An Approved Arborist must submit to the City on forms provided by the City a detailed work plan of any impacts to a Grand Tree as described in Subsections A and B above and how the impacts will be mitigated. In addition, the Approved

Arborist must describe any work of an arboricultural nature that will be performed on the tree. The applicant must receive written approval from the City Manager prior to the commencement of any work. Repeat violations of this requirement may be cause to revoke the Local Business Tax Receipt of the Approved Arborist.

Section 8. The City's Comprehensive Zoning and Land Development Code is hereby amended by adding Section 153.07, which section shall read as follows:

Section 153.07. Protection of a Grand Tree during construction.

A. Tree Barricades. Prior to the commencement of construction activities or any activity that will impact the critical root zone of a Grand Tree or the aerial portion above the critical root zone of a Grand Tree, tree protection barricades must be installed around the tree at a distance equal to or greater than the critical root zone to prevent damage to the roots or the crown of the tree. The barricades must be in place and inspected and approved by the City prior to any site work.

B. Barricade specifications. The barricades shall be composed entirely of chain-link fencing with a minimum height of 5 feet above grade. The chain-link fence shall have upright metal posts placed no farther apart than 8 feet on center and shall have a continuous metal top rail. The chain-link fence shall have four signs fastened to the fence at 4 feet above grade and spaced equally around the tree. The signs will be provided by the City and will provide the name and contact phone number for the City's inspector and the signs will include a warning prohibiting the removal of the fencing without first obtaining permission from the City and will state that there are penalties for removal of the fencing without City permission. The protective barricades and the signs shall remain in place until all site work is completed and the City's inspector approves their removal.

C. Critical Root Zone. When the critical root zone of a Grand Tree will be disturbed affected roots must be severed by clean pruning cuts at the point where construction impacts the roots. Roots can be pruned by utilizing a root-pruning machine designed for this purpose or by hand digging a trench and pruning roots with a pruning saw, chain saw, or other equipment designed for tree pruning. Roots located within the critical root zone that will be impacted by construction, must be pruned to a depth of 18 inches below the existing grade or to the depth of disturbance if less than 18 inches from the existing grade. All root pruning must be performed by or under the direction of an Approved Arborist and approved by the City. When underground utility lines are to be installed within the critical root zone, the root pruning requirements may be waived by the City Manager if the lines are installed via tunneling, directional drilling, jack and bore or other procedures that do not require an open trench and do not damage roots.

D. Pruning. Any pruning performed on a Grand Tree shall be based on specifications that conform to standards as defined in the American National Standards Institute (ANSI) 2001 publication, *American National Standard for tree care operations – Tree Shrub and other Woody Plant Maintenance – Standards practices (pruning)* ANSI A – 300 and in accordance with the

specifications presented in the companion publication to the ANSI Standards, *Best Management Practices, Tree pruning*, published by the International Society of Arboriculture.

E. Tree Preservation Plan. An Approved Arborist must submit to the City on forms provided by the City a detailed work plan of any impacts to a Grand Tree by the proposed construction and how the impacts will be mitigated. In addition, the Approved Arborist must describe any work of an arboricultural nature that will be performed on the tree. The applicant must receive written approval from the City Manager prior to the commencement of any work.

F. Violations. Any violations of Section 153.07. shall be subject to the penalties and civil remedy provisions set forth in Section 153.05.

Section 9: The City's Comprehensive Zoning and Land Development Code is hereby amended by adding Section 153.08, which section shall read as follows:

Section 153.08. Inventory of Grand Trees. The City of Safety Harbor shall develop an inventory recording the location, species and the calculations of each Grand Tree as they are qualified and conduct annual inspections of the Grand Trees and keep records of their status in regard to their health and overall condition to the extent City resources are available to accomplish such work.

Section 10: The City's Comprehensive Zoning and Land Development Code is hereby amended by adding Section 153.09, which section shall read as follows:

Section 153.09. Waiver of the requirements of Section 153.00, et seq. In times of a natural disaster, the City Manager may declare a state of emergency and waive the provisions of Section 153.00, et seq.

Section 11: The City's Comprehensive Zoning and Land Development Code is hereby amended by adding Section 153.10, which section shall read as follows:

Section 153.10. Tree Bank Fund.

A. Creation; purpose. There is hereby created the City's Tree Bank Fund for the purpose of:

1. Acquiring, protecting and maintaining native vegetative communities in the City;
2. Acquiring, protecting and maintaining land for the placement of trees acquired pursuant to Section 153.00, et seq.
3. Purchasing vegetation for placement on public properties in the City and their maintenance; and
4. Mitigating the impact of any damage from violations of Section 153.00, et seq.

B. Maintenance of fund. The Tree Bank Fund may be used as a matching fund contribution toward the acquisition of native vegetative communities in the City in association with other public land acquisition programs. Such tree bank funds shall be kept, maintained and identified by the City Commission solely for the purposes set forth in Section 153.00, et seq. The City Manager is hereby authorized to establish the Tree Bank Fund and to receive and disburse moneys in accordance with the provisions of this section.

C. Source of moneys. The Tree Bank Fund shall consist of the following moneys:

1. All moneys collected by the City Manager pursuant to the provisions of Section 153.00, et seq. which are obtained through civil action and consent agreements.
2. All moneys offered to and accepted by the City for the tree bank fund in the form of federal, state or other governmental grants, allocations or appropriations, as well as foundation or private grants and donations.
3. Contributions in lieu of, or in conjunction with, the replacement planting provisions of section 153.04. The City Manager shall collect funds designated for the Tree Bank Fund when the replacement planting requirements of section 400 cannot be met.

D. Interest. Unless otherwise restricted by the terms and conditions of a particular grant, gift, appropriation or allocation, all interest earned by the investment of all moneys in the Tree Bank Fund shall accrue to the fund and shall be disbursed for any project authorized consistent with this section. The Tree Bank Fund shall be invested only in accordance with the laws pertaining to the investment of City funds.

E. Effect on permitting. Decisions to grant or deny permits provided for by Section 153.00 et seq. shall be made without consideration of the existence of the Tree Bank Fund or offers of donations.

Section 12: The City's Comprehensive Zoning and Land Development Code is hereby amended by adding Section 153.11, which section shall read as follows:

Section 153.11. Severability. If any provision of this ordinance is found to be invalid or unconstitutional by any court or presiding jurisdiction, such provision shall be deemed a separate provision and shall not affect the validity of the remainder of the ordinance.

Section 13: That the City Clerk of the City of Safety Harbor, Florida, shall cause this ordinance to be published in accordance with the requirements of law.

Section 14: This ordinance shall become effective immediately upon its adoption.

PASSED ON FIRST READING THIS 5TH DAY OF NOVEMBER, 2007.

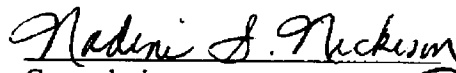
PASSED AND ADOPTED ON SECOND READING THIS 19TH DAY OF NOVEMBER, 2007.



Mayor-Commissioner

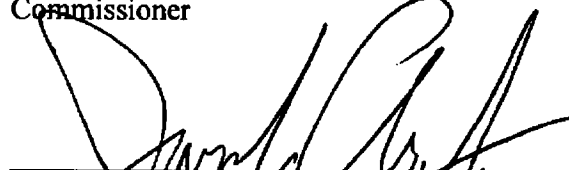


Vice Mayor-Commissioner




Commissioner


ATTEST:



Commissioner



Cathy Benson, MMC
City Clerk



Commissioner