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**SUBJECT:** Adoption of Ordinance No. 2021-18, upon second reading, to amend the tree ordinance and add grand tree regulations

**ACTION REQUESTED:** Adoption/Denial of Ordinance No. 2021-18, upon second reading.

**REQUESTED BY:** Marcie Stenmark, AICP, Community Development Director

**SUPPORTING DOCUMENTS:** Yes

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### **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 The grand tree ordinance was repealed.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 adoption of Ordinance No. 2021-18, upon second reading.

*Legal Ad: A legal ad is required prior to second reading. A legal ad was published in the Tampa Bay Times on December 8, 2021.*

*To view legal ads, visit:*

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

*To sign up for legal ad reminder e-mails, visit*

<http://www.cityofsafetyharbor.com/list.aspx>

**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 1: 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~~ 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
<i>Elaeocarpus decipiens</i>	Japanese Blueberry	No	A	All	Mod	AC-AL	SN-PS	Unk.

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/PS/HS	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 elliotii</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</i> var. <i>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 elliotii</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;
  - (2) 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.
  - (3) 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 \_\_\_\_DECEMBER 6, 2021.

PASSED ON SECOND AND FINAL READING \_\_DECEMBER 20, 2021.

APPROVED AS TO FORM:

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Nikki C. Day, City Attorney

ATTEST:

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Karen Sammons, CMC, City Clerk

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Mayor – Commissioner

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Vice Mayor – Commissioner

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Commissioner

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Commissioner

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Commissioner