

Chapter 21 LANDSCAPING REGULATIONS

[HISTORY: Adopted by the City Commission of the City of North Port 9-17-1990 by Ord. No. 90-28 (Section 6). Amendments noted where applicable.]

GENERAL REFERENCES

Trees — See Ch. 210.

Water conservation — See Ch. 222.

[Sec. 21-1. Title.](#)

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[Sec. 21-16. Landscape plan required.](#)

[Sec. 21-17. Variances. \[Added 6-26-1995 by Ord. No. 95-5\]](#)

[Sec. 21-18. Enforcement. \[Amended 6-26-1995 by Ord. No. 95-5\]](#)

[Sec. 21-19. Interpretations.](#)

[Sec. 21-20. Conflicts.](#)

[Sec. 21-21. Appeals.](#)

[Sec. 21-22. Severability.](#)

Sec. 21-1. Title.

This chapter shall be known and may be cited as the "Landscape Regulations of the City of North Port, Florida."

Sec. 21-2. Intent.

It is the intent of the City Commission of the City of North Port to promote the health, safety and welfare of existing and future residents of and visitors to the City by establishing minimum standards for the installation and continued maintenance of landscaping within the City of North Port.

Sec. 21-3. Relationship to Comprehensive Plan.

The landscaping regulations in this chapter implement Objective 3 of the Conservation and Coastal Zone Management Element of the Comprehensive Plan, which states "The City shall encourage the preservation of existing native vegetation, the creation of an urban forest, and the use of xeriscape methods for landscaping public and private development. Tree preservation activities and the planting of trees shall result in an overall, citywide, phased-in, tree canopy no later than build-out that ranges from 35% to 80% of the tree canopy that existed at the time of adoption of this Comprehensive Plan in 1997," as well as the following policy statements subsumed hereunder:

"Policy 3.2: The City will continue to review landscape/tree ordinances from other communities and further, review tree protection/preservation initiatives that would benefit the City. Based upon these reviews, revisions to the tree protection and landscape code shall be implemented."

"Policy 3.3: The Land Development regulations shall continue to prohibit the planting of exotic noxious vegetation such as (*Melaleuca quinquenervia*), Brazilian Pepper (*Schinus terebinthifolius*), and Australian Pine (*Casurina*) as listed by State authorities."

Sec. 21-4. Findings.

A. The City Commission of the City of North Port hereby finds that landscaping:

- (1) Promotes the conservation of potable and non-potable water, and for this reason the preservation of existing plant communities, the planting of natural or uncultivated areas, the use of site-specific plant materials and the establishment of techniques for the installation and maintenance of landscape materials and irrigation systems should be encouraged.
- (2) Improves the aesthetic appearance of residential and commercial areas through the incorporation of open space into development in ways that harmonize and enhance the natural and built environment.
- (3) Improves environmental quality through its numerous beneficial effects upon the environment, including:
 - (a) Improving air and water quality through such natural processes such as photosynthesis and mineral uptake.
 - (b) Maintaining permeable land areas essential to surface water management and aquifer recharge.
 - (c) Reducing and reversing air, noise, heat and chemical pollution through the biological filtering capacities of trees and other vegetation.
 - (d) Conserving energy through the creation of shade, reducing heat gain in or on buildings or paved areas.
 - (e) Reducing the temperature of the microclimate through the process of evapotranspiration.
 - (f) Encouraging the conservation of limited fresh water resources through the use of site-specific plants and various planting and maintenance techniques.
- (4) Maintains and increases the value of land, thus becoming by itself a valuable capital asset.

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- (5) Provides direct and important physical and psychological benefits to human beings through the reduction of noise and glare, and breaks up the monotony and softens the harsher aspects of urban development.
- B. All landscaped areas herein required should conform to the following general design principles:
 - (1) Landscaping should integrate the proposed development into existing site features through consideration of existing topography, hydrology, soils and vegetation.
 - (2) The functional elements of the development plan, particularly the drainage systems and internal circulation systems for vehicles and pedestrians, should be integrated into the landscaping plan.
 - (3) Landscaping should be used to minimize potential erosion through the use of ground covers or any other type of landscape material which aids in soil stabilization and shall be approved by the City Manager or designee.
 - (4) Existing (native) vegetation should generally be preserved and used to meet landscaping requirements.
 - (5) Landscaping should enhance the visual environment through the use of materials which achieve variety with respect to seasonal changes, species of living material selected, textures, colors and size at maturity. Lighting should be incorporated into the landscaping to enhance the visual environment.
 - (6) Landscaping design should consider the aesthetic and functional aspects of vegetation, both when initially installed and when the vegetation has reached maturity. Newly installed plants should be placed at intervals appropriate to the size of the plants at maturity, and the design should use short- and long-term elements to satisfy the general design principles of this chapter over time.
 - (7) Landscaping should enhance public safety and minimize nuisances.
 - (8) Landscaping should be used to provide windbreaks, channel wind and increase ventilation.
 - (9) Landscaping should maximize the shading of streets and vehicle use areas.
 - (10) The selection and placement of landscaping materials should consider the effect on existing or future solar access, of enhancing the use of solar radiation and of conserving the maximum amount of energy.
 - (11) All walls, gates, fences, plant material, and all other landscaping improvements shall be placed so as not to block any Fire Department appliances (fire hydrants and Fire Department Connections), when constructed or planted and/or mature. The minimum clearance around all fire department appliances shall be seven and one-half (7½) feet on each side, seven and one-half (7½) feet in front, and four (4) feet in the rear.
 - (12) Landscaping should be used as a way-finder for pedestrians by using the same varieties of plantings along sidewalks, pathways and trails.

Sec. 21-5. Applicability.

- A. *General.* These regulations shall apply to any new property development including new minor site development or to the expansion of existing development as specified in Sec. 21-5B(4) below. These regulations shall not apply to a development which is governed by a valid site development plan or a valid building permit accepted prior to its effective date. However, the policy of the City shall be to encourage adherence to the provisions and the intent of this chapter for all categories of existing development.

In the event a development applies to change its approved or existing landscape plan, the new plan shall adhere to the most current adopted landscaping code.

- B. *Exemptions.*

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- (1) Commercial nursery. Commercial nurseries shall be exempt from this chapter.
- (2) Agricultural. Any bona fide agricultural use found in Sec. 53-25(B) shall be exempt from this chapter.
- (3) Expansion of existing single-family and two-family dwellings. Any expansion of an existing single-family or two-family dwelling shall be exempt from this chapter.
- (4) Expansion of existing development by fifty percent (50%) or less. Any development on a parcel which increases the total floor area of an existing structure by no more than fifty percent (50%) shall be exempt from this chapter.

C. Suspension of requirements.

- (1) Temporary suspension of landscaping installation requirements. The installation of landscaping pursuant to the provisions of this chapter may be temporarily suspended in individual cases at the discretion of the City Manager or designee:
 - (a) *Freeze*. After a freeze when required landscape materials are not available.
 - (b) *Drought*. During a period of drought in which the use of water for installation and establishment of new landscaping is restricted by the Southwest Florida Water Management District.
- (2) Written agreement required. The suspension of planting shall be conditioned upon the signing by the applicant of a written agreement stating that installation of required landscaping will resume as soon as neither of the above two (2) emergency conditions pertains. Failure of the applicant to fulfill the terms of such agreement shall be subject to adjudication by the Code Enforcement Board.

Sec. 21-6. Prohibited plant species.

The following plant species shall not be planted in the City of North Port:

Scientific Name	Common Name
<i>Abrus precatorius</i>	rosary pea
<i>Acacia auriculiformis</i>	earleaf acacia
<i>Albizia julibrissin</i>	mimosa, silk tree
<i>Albizia lebbek</i>	woman's tongue
<i>Ardisia crenata</i> (= <i>A. crenulata</i>)	coral ardisia
<i>Ardisia elliptica</i> (= <i>A. humilis</i>)	shoebutton ardisia
<i>Asparagus aethiopicus</i> (= <i>A. sprengeri</i> ; <i>A. densiflorus</i> misapplied)	asparagus-fern

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<i>Bischofia javanica</i>	bischofia
<i>Calophyllum antillanum</i> (= <i>C. calaba</i> ; <i>C. inophyllum</i> misapplied)	santa maria (names "mast wood," "Alexandrian laurel" used in cultivation)
<i>Casuarina equisetifolia</i>	Australian pine
<i>Casuarina glauca</i>	suckering Australian pine
<i>Colocasia esculenta</i>	wild taro
<i>Colubrina asiatica</i>	lather leaf
<i>Cupaniopsis anacardioides</i>	carrotwood
<i>Dioscorea alata</i>	winged yam
<i>Dioscorea bulbifera</i>	air-potato
<i>Eichhornia crassipes</i>	water-hyacinth
<i>Ficus microcarpa</i> (<i>F. nitida</i> and <i>F. retusa</i> var. <i>nitida</i> misapplied)	laurel fig
<i>Hydrilla verticillata</i>	hydrilla
<i>Hygrophila polysperma</i>	green hygro
<i>Hymenachne amplexicaulis</i>	West Indian marsh grass
<i>Imperata cylindrica</i> (<i>I. brasiliensis</i> misapplied)	cogon grass
<i>Ipomoea aquatica</i>	waterspinach
<i>Jasminum dichotomum</i>	Gold Coast jasmine
<i>Jasminum fluminense</i>	Brazilian jasmine
<i>Lantana camara</i>	lantana, shrub verbena

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<i>Lonicera japonica</i>	Japanese honeysuckle
<i>Lygodium japonicum</i>	Japanese climbing fern
<i>Lygodium microphyllum</i>	Old World climbing fern
<i>Macfadyena unguis-cati</i>	cat's claw vine
<i>Manilkara zapota</i>	sapodilla
<i>Melaleuca quinquenervia</i>	melaleuca, paper bark
<i>Mimosa pigra</i>	catclaw mimosa
<i>Nandina domestica</i>	nandina, heavenly bamboo
<i>Nephrolepis cordifolia</i>	sword fern
<i>Nephrolepis multiflora</i>	Asian sword fern
<i>Neyraudia reynaudiana</i>	Burma reed, cane grass
<i>Paederia cruddasiana</i>	sewer vine, onion vine
<i>Paederia foetida</i>	skunk vine
<i>Panicum repens</i>	torpedo grass
<i>Pennisetum purpureum</i>	Napier grass
<i>Pistia stratiotes</i>	waterlettuce
<i>Pueraria montana</i> var. <i>lobata</i> (= <i>P. lobata</i>)	kudzu
<i>Rhodomyrtus tomentosa</i>	downy rose-myrtle
<i>Rhoeo spathacea</i> (see <i>Tradescantia spathacea</i>)	
<i>Rhynchelytrum repens</i>	Natal grass

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<i>Sapium sebiferum</i> (= <i>Triadeca sebifera</i>)	popcorn tree, Chinese tallow tree
<i>Scaevola taccada</i> (= <i>Scaevola sericea</i> , <i>S. frutescens</i>)	scaevola, half-flower, beach naupaka
<i>Schinus terebinthifolius</i>	Brazilian pepper
<i>Senna pendula</i> var. <i>glabrata</i> (= <i>Cassia coluteoides</i>)	climbing cassia, Christmas cassia, Christmas senna
<i>Solanum tampicense</i> (= <i>S. houstonii</i>)	wetland night shade, aquatic soda apple
<i>Solanum viarum</i>	tropical soda apple
<i>Syngonium podophyllum</i>	arrowhead vine
<i>Syzygium cumini</i>	jambolan, Java plum
<i>Tectaria incisa</i>	incised halberd fern
<i>Tradescantia spathacea</i> (= <i>Rhoeo spathacea</i> , <i>Rhoeo discolor</i>)	oyster plant
<i>Urochloa mutica</i> (= <i>Brachiaria mutica</i>)	Pará grass
<i>Adenanthera pavonina</i>	red sandalwood
<i>Agave sisalana</i>	sisal hemp
<i>Aleurites fordii</i> (= <i>Vernicia fordii</i>)	tung oil tree
<i>Alstonia macrophylla</i>	devil-tree
<i>Alternanthera philoxeroides</i>	alligator weed
<i>Antigonon leptopus</i>	coral vine
<i>Aristolochia littoralis</i>	calico flower
<i>Asystasia gangetica</i>	Ganges primrose

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<i>Broussonetia papyrifera</i>	paper mulberry
<i>Callisia fragrans</i>	inch plant, spironema
<i>Casuarina cunninghamiana</i>	Australian pine
<i>Cestrum diurnum</i>	day jessamine
<i>Chamaedorea seifrizii</i>	bamboo palm
<i>Clematis terniflora</i>	Japanese clematis
<i>Cryptostegia madagascariensis</i>	rubber vine
<i>Cyperus involucratus</i> (<i>C. alternifolius</i> misapplied)	umbrella plant
<i>Cyperus prolifer</i>	dwarf papyrus
<i>Dalbergia sissoo</i>	Indian rosewood, sissoo
<i>Elaeagnus pungens</i>	thorny eleagnus
<i>Epipremnum pinnatum</i> cv. <i>Aureum</i>	pothos
<i>Ficus altissima</i>	false banyan, council tree
<i>Flacourtia indica</i>	governor's plum
<i>Hemarthria altissima</i>	limpo grass
<i>Jasminum sambac</i>	Arabian jasmine
<i>Kalanchoe pinnata</i>	life plant
<i>Koelreuteria elegans</i> ssp. <i>formosana</i> (= <i>K. formosana</i> ; <i>K. paniculata</i> misapplied)	flamegold tree
<i>Leucaena leucocephala</i>	lead tree
<i>Limnophila sessiliflora</i>	Asian marshweed

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<i>Melia azedarach</i>	Chinaberry
<i>Merremia tuberosa</i>	wood-rose
<i>Myriophyllum spicatum</i>	Eurasian water-milfoil
<i>Nymphoides cristata</i>	snowflake
<i>Panicum maximum</i>	Guinea grass
<i>Passiflora biflora</i>	two-flowered passion vine
<i>Phyllostachys aurea</i>	golden bamboo
<i>Pteris vittata</i>	Chinese brake fern
<i>Ricinus communis</i>	castor bean
<i>Sansevieria hyacinthoides</i>	bowstring hemp
<i>Scleria lacustris</i>	Wright's nutrush
<i>Sesbania punicea</i>	purple sesban, rattlebox
<i>Solanum diphyllum</i>	Two-leaf nightshade
<i>Solanum jamaicense</i>	Jamiaca nightshade
<i>Solanum torvum</i>	susumber, turkey berry
<i>Sphagneticola trilobata</i> (= <i>Wedelia trilobata</i>)	wedelia
<i>Stachytarpheta urticifolia</i> (= <i>S.cayennensis</i>)	nettle-leaf porterweed
<i>Syzygium jambos</i>	rose-apple
<i>Terminalia catappa</i>	tropical almond
<i>Terminalia muelleri</i>	Australian almond

<i>Tribulus cistoides</i>	puncture vine, burr-nut
<i>Urena lobata</i>	Caesar's weed
<i>Vitex trifolia</i>	simple-leaf chaste tree
<i>Wedelia</i> (see <i>Sphagneticola</i> above)	
<i>Wisteria sinensis</i>	Chinese wisteria

Sec. 21-7. Minimum tree and shrub planting or preservation requirements.

Unless otherwise provided in this chapter, a minimum number of trees and shrubs shall be planted or preserved upon each site, as follows:

Note: Trees planted to meet the following requirements must meet the standards contained in Sec. 45-11.

- A. Single-family or duplex residential unit lots (Districts RSF-2, RSF-3, PCD and RTF):
 - (1) Minimum tree planting requirements. Trees shall meet or exceed the thirty-five percent (35%) canopy coverage requirements in Chapter 45. All trees shall be from the Tree Priority List, maintained by the City Manager or designee. (See also Sec. 45-19). [Amended 4-8-2002 by Ord. No. 2002-17]
 - (2) Minimum shrub planting requirements. Three (3) shrubs shall be planted or preserved for every two thousand five hundred (2,500) square feet of area of a residential lot, excluding only areas of vegetation required to be preserved by law.
- B. Multiple-family residence developments (Districts RMF and PCD).
 - (1) Minimum tree planting requirements. One hundred percent (100%) coverage of pervious areas, excluding areas of vegetation required to be preserved by law, and off-street parking areas. All trees shall be from the Tree Priority List, maintained by the City Manager or designee. (See also Sec. 45-19). [Amended 4-8-2002 by Ord. No. 2002-17]
 - (2) Minimum shrub planting requirements. Ten (10) shrubs shall be planted or preserved for every acre of a multiple-family lot or fraction thereof, excluding only areas of vegetation required to be preserved by law.
- C. Modular home residence lots (Districts RMH).
 - (1) Minimum tree planting requirements. Two (2) trees of at least minimum size shall be planted or preserved on every mobile home lot, regardless of lot size. Trees shall meet or exceed the thirty-five percent (35%) canopy coverage requirements in Chapter 45. All trees shall be from the Tree Priority List, maintained by the City Manager or designee. (See also Sec. 45-19). [Amended 4-8-2002 by Ord. No. 2002-17] [Amended 4-8-2002 by Ord. No. 2002-17]
 - (2) Minimum shrub planting requirements. Three (3) shrubs shall be planted or preserved for every two thousand (2,000) square feet of area of a mobile home lot.
- D. Agricultural district lots (District AG).

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- (1) Minimum tree planting requirements. Ten (10) trees shall be planted or preserved for every acre.
- E. Government use districts (Districts GU and PCD).
 - (1) Minimum tree and shrub planting requirements. Each government use site or lot shall contain a minimum of five (5) trees per acre and ten (10) shrubs per two thousand (2,000) square feet of that portion of the site or lot which is not utilized for structures or active play areas. Trees shall meet or exceed the thirty-five percent (35%) canopy coverage requirements in Chapter 45. All trees shall be from the Tree Priority List, maintained by the City Manager or designee. (See also Sec. 45-19). [Amended 4-8-2002 by Ord. No. 2002-17]
- F. Commercial, industrial office districts, and Planned Community Development (Districts CG, ILW, OPI and PCD). Minimum tree planting for commercial, industrial and office sites. At maturity, tree canopy shall be one hundred percent (100%) of areas not required for building footprint, or open stormwater systems or otherwise impervious surfaces. All trees shall be from the Tree Priority List, maintained by the City Manager or designee. (See also Sec. 45-19). [Amended 4-8-2002 by Ord. No. 2002-17]
- G. Development along park lands. When any development is located along park lands, landscape regulations for commercial development shall apply.

Sec. 21-8. Off-street parking facilities and other vehicular use areas.

A. General.

- (1) It is the intent of the City that parking facilities and other vehicular use areas be both functional and aesthetically pleasing. All areas used for a display or parking of any and all types of vehicles, boats or construction equipment, whether such vehicles, boats or equipment are self-propelled or not, and all land upon which vehicles traverse the property as a function of the primary use, shall conform to the minimum landscaping requirements provided herein, except areas used for parking or other vehicular uses under, on or within buildings and parking areas serving single-family dwellings.
- (2) Uses governed by this section are of four (4) general types:
 - (a) Off-street public parking.
 - (b) Other vehicular use areas (such as access roads in planned developments or stacking areas in gasoline service stations, fast food outlets, banks, or similar uses) which are used by the public, but not for off-street parking.
 - (c) Vehicular use areas used for outdoor retail display and sale of motor vehicles as noted above.
 - (d) Specialized vehicular use areas used for storage of motor vehicles or for various transportation, warehousing or trucking operations which are not open to the general public.

B. *Landscaping the interior of off-street parking areas.* Landscaped areas shall be provided for the interior of vehicular use areas so as to provide visual and climatic relief from broad expanses of pavement and to channelize and define logical areas for pedestrian and vehicular circulation. (See Fig. 21-1)

- (1) Minimum interior landscape requirements. A minimum of ten (10) square feet of landscaping for each parking space shall be provided within the interior of an off-street parking area. Where there are rows of parking, every fourth row of the parking area shall be designed with a solid landscape strip at least ten (10) feet in width where all parking spaces shall abut. Wheel stops shall be used on all parking spaces that abuts landscaped areas. The landscape strip shall include islands placed every fifteen (15) parking spaces and have one (1) canopy tree in each island. The landscape strip shall be stabilize with ground cover. A pedestrian walkway shall be required to ensure walkability of the site.

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- (2) Interspersing of landscaped areas with parking spaces. Enhanced landscaped areas shall be distributed so as to limit unbroken rows of parking spaces to a maximum of ten (10) parking spaces per row, on parking rows that do not have the ten (10) foot landscape strip between abutting parking spaces.
- (a) The developer may have the option of constructing fifteen (15) unbroken rows of parking spaces, if the landscape island is increased to seventy-five (75) square feet. There will be no decrease in open space and canopy coverage requirements if this option is used.
- (b) Trees shall be planted using the right tree/right place specifications. The appropriate size tree shall be planted in the appropriate sized landscape island as follows: [Added 1-30-2012 by Ord. No. 2011-32]

50 sq. ft. or less	Greater than 50 sq. ft. Less than 75 sq. ft.	75 sq. ft. or greater
Small Medium	Small Medium Intermediate	Intermediate Major

- (3) Five percent (5%) of the parking spaces may be designated for oversized or pull through parking spaces; however, oversized parking spaces shall count as one (1) parking space. The required number of parking spaces as indicated in Sec. 25-17 of these regulations shall be met.

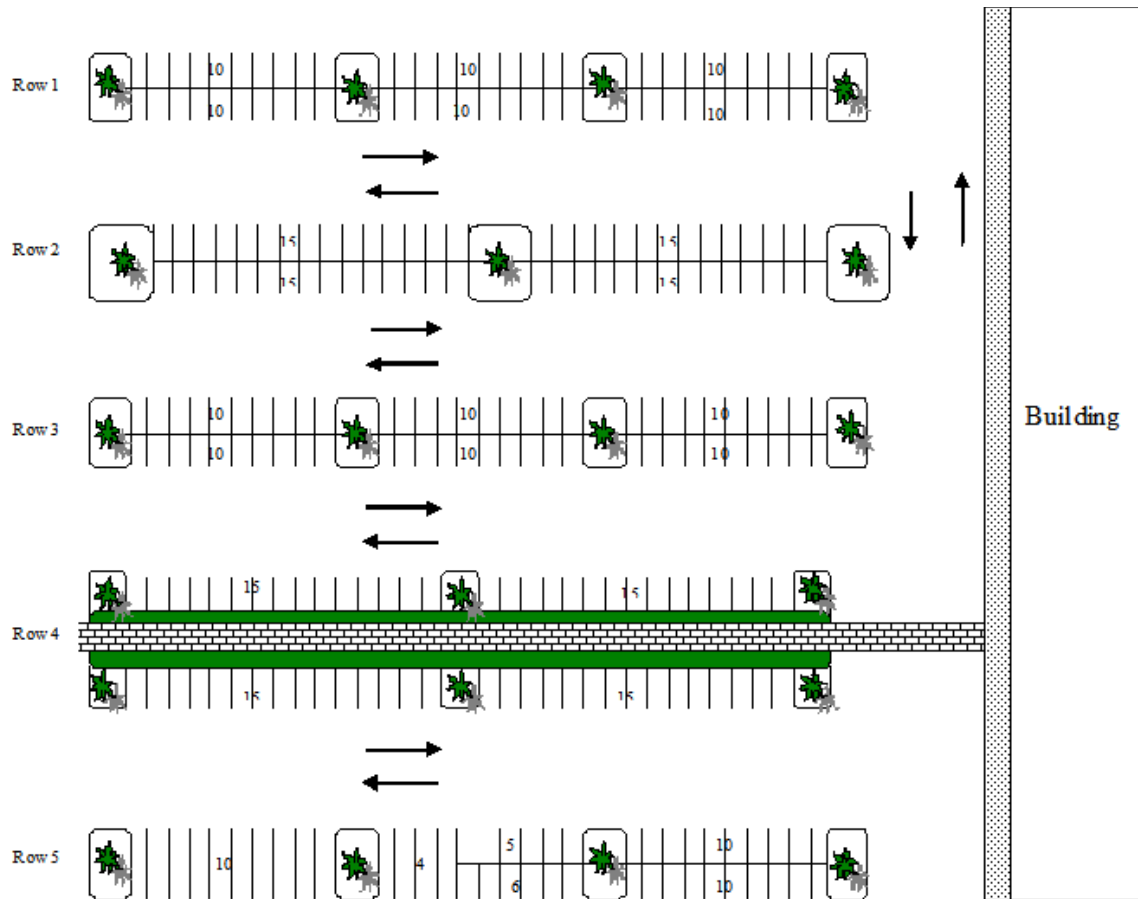


Fig. 21-1

- C. *Use of curbs and wheel stops.* All landscaped buffer areas and sidewalks adjacent to off-street parking areas shall be protected from encroachment or intrusion of vehicles through the use of curbs and/or wheel stops. Wheel stops and/or curbs shall have a minimum height of six (6) inches above finished grade of the parking area. Wheel stops shall be properly anchored and shall be continuously maintained in good condition. Where wheel stops are located two (2) feet from the front of a parking space, that two (2) feet need not be paved. However, the area between the wheel stop and the landscaped area shall receive appropriate landscape treatment, including planting of grass or ground cover. All parking spaces, except parallel parking spaces, that abuts landscaped areas or sidewalks within a parking lot shall have wheel stops to prevent obstruction within the landscaped areas.

Sec. 21-9. Landscaping the perimeter of abutting land uses.

Landscape strips or buffers shall be created around the perimeter of abutting land uses as provided in this section:

- A. *Purpose of buffers.* Perimeter buffers required by this section are intended to separate different land uses from each other and are intended to eliminate or minimize potential nuisances, such as dirt, litter, noise, glare of lights, signs and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor or danger from fires or explosions. Plantings required in connection with perimeter buffers also assist in reducing air pollution hazards.
- B. *Applicability.*

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- (1) Perimeter buffers are required between different abutting permitted uses as specified in Tables 1 and 2 below.
 - (2) Landscape berms are permitted as long as they meet the requirements of this chapter.
 - (3) Fences and walls may be used in conjunction with but not in lieu of the required landscaped buffer area unless otherwise required.
- C. *Location.* Buffers shall be located generally parallel and within the outer perimeter of a lot or parcel and extending to the lot or parcel boundary line, and trees shall be planted parallel and consistent with the property line, unless in conflict with infrastructure as determined by the City.
- D. *Determination of perimeter buffer requirements.* The following procedure shall be followed to determine the type of buffer required:
- (1) In Table 1 below, identify the general land use category of the proposed use. Identify the land use category of abutting existing use(s) by an on-site survey. Identify any public rights-of-way abutting the proposed use.
 - (2) Determine the buffer required on each building site boundary (or portion thereof) by referring to Table 2 below. The width of any accessway which pierce the buffer shall be included in the calculation of lineal dimensions.

TABLE 1
Perimeter Buffers Required Adjacent to Abutting Existing Uses

Proposed Development							
	AG	SF/TF	MF	COM	INDS	Street rights-of way and all other rights-of-way less than 50' in width	All other rights-of-way 50' or greater in width, excludes street rights-of-way
Agricultural	None	A	B	C	D	None	None
Single-family/Two-family	A	None	B	C	D	None	None
Multi-family	A	A	None	C	D	C	C
Commercial	C	C	C	None	B	C	C
Industrial	D	D	D	B	None	D	D
Parking Area	C	C	C	C	B	C	C

TABLE 2
Buffer Types for Proposed Developments

Buffer Type	Width (feet)	Trees Required/Linear Feet (on center)	Shrubs Required ¹
A	5	One/50	Yes
B	10	One/50	Yes
C	10	One/40	Yes
D	20	One/35	Yes

NOTES:

¹ See Sec. 21-9(F), Opacity of buffer, and Sec. 21-9(G), Height of planted buffers (hedges), below.

E. *Perimeter buffering not to be credited against interior landscaping requirements.* Perimeter landscape buffers which are required to be created by this section shall not be credited to satisfy any interior landscaping requirements. Greenbelts are not credited toward any portion of the required landscape buffer.

F. *Opacity of buffer.*

- (1) A planting area shall be so designed and planted as to be fifty percent (50%) or more opaque when viewed horizontally. Shrubs are required every three (3) feet on center in order to meet this fifty percent (50%) opaque requirement.
- (2) When a parking area in any commercial or industrially zoned district is intended to be used at night, such area shall be so designed and planted as to be eighty percent (80%) or more opaque when viewed horizontally. Shrubs are required every two (2) feet on center in order to meet this eighty percent (80%) opaque requirement.

G. *Height of planted buffers (hedges).*

- (1) The planting materials shall be at least three (3) feet high when planted. When abutting a right-of-way, shrubs are required to be forty (40) inches above street grade.
- (2) Berms utilized as planted buffers shall have no maximum average height and shall have sodded side slopes not less than four (4) feet horizontally for each one (1) foot vertically may be permitted if sufficient erosion control methods are taken and deemed to be maintainable.

H. *Requirements for maintaining landscaped buffer areas.*

- (1) Responsibility. The responsibility for maintenance of a required buffer shall remain with the owner of the property, his successors, heirs, assigns or any consenting grantee. Maintenance is required in order to ensure the proper functioning of a buffer as a landscaped area which reduces or eliminates nuisances and/or conflict.
- (2) Maintenance requirements. All plantings shall be maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to, watering, tilling, fertilizing and spraying, mowing, weeding, removal of litter and dead plant material and necessary pruning

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and trimming. In the case of a natural disaster, those plantings located within the landscaped buffer area which were destroyed must be replaced within the following periods of time: in the case of a freeze, within ninety (90) days; in the case of a declared natural disaster (e.g., flood, hurricane, tornado, etc.) in which City ordinances are suspended, within one (1) year following such natural disaster, these planting materials shall be replaced in accordance with the provisions contained within this chapter.

- I. *Additional landscape treatment.* The remainder of the perimeter landscape strip shall be landscaped with grass, ground cover or other appropriate landscape treatment, such as mulch. Sand or pavement shall not be considered to be appropriate landscape treatment.
- J. *Landscape along waterways and parks.* If a development abuts a waterway or park, additional landscape shall be required along the side that abuts the waterway or park. The buffer shall be ten (10) feet wide with two (2) rows of trees planted in a staggered pattern. Each row of tree shall be planted every forty (40) feet on center. One (1) row of tree shall be planted on the interior side of the buffer with small and medium shade trees found in Sec. 45-19. The other row of trees shall be planted with major shade trees found in Sec. 45-19.

[Amended 6-26-1995 by Ord. No. 95-5; Amended 9-23-2013 by Ord. No. 2013-19]

Sec. 21-10. Landscape design standards.

The following standards shall be considered the minimum requirements for the installation of all plant materials within the City of North Port:

- A. Standards for landscape materials.
 - (1) *Quality of plants.* All plant materials shall be a minimum of Florida Number One as defined in Grades and Standards Revised, Part II, as published by the Florida Department of Agriculture and Consumer Services. Exceptions and substitutions from this regulation may be reviewed and approved by the Planning and Zoning Department in order to promote the use of slow growing or native plant materials.
 - (2) *Tree planting standards, minimum size.* Immediately upon planting, trees shall be a minimum of eight (8) feet in height and shall have a minimum three (3) inch caliper measured at six (6) inches above ground level, and shall be Florida grading standards, Grade #1 or better. Where spacing is designated, "on center" is implied. Alternate spacing may be used to preserved trees as allowed in Chapter 45 of this Unified Land Development Code. [Amended 4-8-2002 by Ord. No. 2002-17; Amended 11-24-2003 by Ord. No. 2002-56]
 - (3) *Native species of trees.* A minimum of fifty percent (50%) of all trees required to be planted by this chapter shall be native species.
 - (4) *Tree species mix.* When more than three (3) trees are required to be planted to meet the requirements of this chapter, a mix of species shall be provided. The number of species to be planted shall vary according to the overall number of trees required to be planted. The minimum number of species to be planted are indicated in Table 3 below. Species shall be planted in proportion to the required mix. This species mix shall not apply to areas of vegetation to be preserved by law.

TABLE 3

Required Number of Trees	Required Species Mix
	Minimum Number of Species

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1—3	1
4—8	2
9—30	3
31—60	4
61 and Over	5

- (5) *Shrub planting standards.* Except for standards set forth in Sec. 21-9(F) and (G), when required to be planted by this chapter, shrubs or hedges shall be a minimum of twelve (12) inches in height immediately upon planting and spaced thirty-six (36) inches on center. Spacing of individual plants shall depend upon the type of hedge material used.
- B. Planting of lawn areas.
- (1) Grass areas shall be sodded, except for those lots over one (1) acre in size, the sod area shall extend to the size of a standard lot (eighty (80) x one hundred twenty-five (125)) and the remaining area may be hydroseed or xeriscaped. Sod provided must be viable, reasonably free of weeds and capable of growth and development. In general, sod strips shall be aligned with tightly fitted, staggered joints and no overlap of butts or sides. Hydroseed shall be well established to provide ground stabilization. If hydroseed fails to stabilize the ground in the permitted areas, sod will then be required.
- (2) Subgrade of lawn area after finished grading shall be reasonably free of stones, sticks, roots and other matter prior to the placement of sod. New lawns shall be watered immediately after planting and shall be maintained in a living condition.
- (3) Mulch, including synthetic ground cover, such as decorative stone, may only be used around trees and landscaped areas and may not be used in lieu of sod for lawn areas.
- C. All landscaping activities conducted within the Myakka River Protection Zone (MRPZ) shall be regulated by Chapter 57 and these regulations.

Sec. 21-11. Landscape credit system.

- A. Existing trees may be credited toward minimum tree planting requirements, refer to Chapter 45, Tree Protection Regulations.
- B. No credit shall be given for preserved trees that:
- (1) Are not located within the scope of the approved land clearing permitted area.
- (2) Are located in natural preservation areas indicated on an approved master land use, site development plan or plat.
- (3) Are required to be preserved by law.
- (4) Are not properly protected from damage during the construction process, as provided in Chapter 45 of this Unified Land Development Code.
- (5) Are prohibited species as identified in Sec. 21-6.

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- (6) Are dead, dying, diseased or infested with harmful insects.
- (7) Are located in recreation tracts, golf courses or similar subareas within planned developments which are not intended to be developed for residential, commercial or industrial use.

[Amended 9-23-2013 by Ord. No. 2013-19]

Sec. 21-12. Landscaping in rights-of-way.

- A. Permit required. For all new developments being processed as a major site and development plan, final subdivision plan, or development master plan the property owner shall install street trees along all adjacent streets and streets that are internal to the development tract. A permit(s) from the North Port Building Division will be required. Permit application forms shall be prepared and made available to applicants by the North Port Building Division.
- B. Where a drive splits a parcel or lot to create access to more than one (1) business, sidewalks and street trees shall be placed on both sides of the drive.
- C. Installation standards and requirements.
 - (1) Planting standards. Unless otherwise provided in the subsection, plant material to be utilized shall comply with Sec. 21-10.
 - (2) Street Tree location requirements. Shall comply with Chapter 45 of these regulations.
 - (3) Alternate-side planting. Except where property on one (1) side of the right-of-way is not owned by the developer, the trees shall be planted on both sides of the street. Native shade tree species are required.
 - (4) Maintaining safe sight distance at intersections and points of access. Landscaping shall comply with Sec. 21-14 below.
 - (5) Maintenance. The property owner shall be responsible for the continuing maintenance and replacement of all unhealthy or dead landscaping and trees, and shall keep the area free from any refuse or debris. Tree canopy development standards do not expire upon the issuance of the final certificate of occupancy or the certificate of completion.

[Amended 1-30-2012 by Ord. No. 2011-32; Amended 9-23-2013 by Ord. No. 2013-19]

Sec. 21-13. Berms.

- A. Berms may be used as landscape treatment with no height limitation throughout a site as follows:
 - (1) No portion of the berm shall be located within the easement or right-of-way.
 - (2) Berms shall not be permitted to be placed within the area between fire hydrants and roadways.
 - (3) The berm shall not block any drainage flow, and the stormwater runoff from the berm shall not cause adverse impact(s) to off-site or on-site properties.
 - (4) Berms utilized as planted buffers shall have no maximum average height and shall have sodded side slopes of not less than four (4) feet horizontally for each one (1) foot vertically may be permitted if sufficient erosion control methods are taken and deemed to be maintainable.
 - (5) The berm shall maintain side slopes of not less than four (4) feet horizontally for each one (1) foot vertically. Sufficient erosion control methods shall be taken and deemed to be maintainable.
 - (a) The responsibility for maintenance of a berm within a development shall remain with the owner of the property, his successors, heirs, assigns or any consenting grantee. Maintenance is required to ensure proper functioning of the berm as a landscaped area.

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- (b) All plantings shall be maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to, watering, tilling, fertilizing and spraying, mowing, weeding, removal of litter and dead plant material and necessary pruning and trimming.
- (c) In the case of a natural disaster, those plantings located on the berm area which are destroyed must be replaced within the following periods of time: in the case of a freeze, within ninety (90) days; in the case of a declared natural disaster (e.g., flood, hurricane, tornado, etc.) in which City ordinances are suspended, within one (1) year following such natural disaster, these planting materials shall be replaced in accordance with the provisions contained within this chapter.
- (6) No building structure, except walls or fencing, shall be constructed on the berm.
- (7) Sod, ground cover or other plant or landscape material as approved by the City shall be used to completely cover and stabilize the berm on all sides.
- (8) The berm shall be graded to a smooth level to create a natural ground landscape.
- (9) Lighting may be used, but shall adhere to all lighting regulations in this code.
- (10) The building of a berm not in conjunction with an active major site and development or subdivision plan shall require a building permit approval.

Sec. 21-14. Placement of landscaping.

To maintain roadside recovery and safe sight distance at intersections and points of access, landscaping shall be located in accordance with the provisions of the State of Florida Department of Transportation's Manual of Uniform Minimum Standards for Design, Construction, and Maintenance of Streets and Highways (commonly known as the "DOT Green Book"), as amended.

Sec. 21-15. Irrigation systems.

- A. Irrigation in declared water shortage periods. In accordance with Chapter 38, Water Conservation, of the Code of the City of North Port, irrigation of landscaped areas in the City of North Port shall be reduced to the extent specified by the Southwest Florida Water Management District during declared water shortage periods.
- B. Required irrigation systems. All required landscaped areas shall be equipped with permanent irrigation systems. Where appropriate, it is strongly encouraged that drip/micro irrigation be used. This provision shall not apply to existing plant or tree communities or to parcels for single-family and two-family dwellings.

Sec. 21-16. Landscape plan required.

- A. Prior to the issuance of any permit for major or minor site development, a landscape plan shall be submitted to, reviewed by and approved by the City Manager or designee.
- B. Nature of required plan.
 - (1) *Single-family or duplex residence.* The landscape plan submitted for an individual single-family or duplex residence on its own lot may be in the form of a plot or drawing prepared by the owner or his agent. This information may be depicted on the site plan submitted as part of the application for a building permit. Such plot or site plan shall also be sufficient for single-family or duplex developments on sites of fewer than five (5) acres.
 - (2) *All other development.* The landscape plan for all other developments shall be prepared by and bear the seal of a landscape architect or otherwise be prepared by persons authorized to prepare landscape plans or site plans by Chapter 481, Part II (Landscape Architecture) of Florida Statutes.

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For developments of fewer than five (5) acres, plans may be prepared by other legally qualified persons, such as architects, engineers, nurserymen, nursery stock dealers, nursery agents, etc.

- C. Contents of landscape plans. Each landscape plan or alternative landscape betterment plan required or permitted to be submitted by this chapter shall:
- (1) Be drawn to scale, including dimensions and distances.
 - (2) Delineate the existing and proposed parking spaces, or other vehicular areas, access aisles, driveways and similar features.
 - (3) Indicate the location of sprinklers or water outlets.
 - (4) Designate by species name and location the plant material to be installed or preserved in accordance with the requirements of this chapter.
 - (5) Identify and describe the location and characteristics of all other landscape materials to be used.
 - (6) Show all landscape features, including lighting structures, areas of vegetation required to be preserved by law, in context with the location and outline of existing and proposed buildings and other improvements upon the site, if any.
 - (7) Include a tabulation clearly displaying the relevant statistical information necessary for the City Manager or designee to evaluate compliance with the provisions of this chapter. This includes gross acreage, area of preservation areas, number of trees to be planted or preserved, square footage of paved areas and such other information as the City Manager or designee may require.
 - (8) Contain such other information that may be required by the City Manager or designee that is reasonable and necessary to a determination that the landscape plan meets the requirements of this chapter.
- D. Amended site development plans.
- (1) *Site plans amended by the City Commission.* This chapter shall apply to a development approved prior to its effective date if its governing site development plan is amended by the City Commission.
 - (2) *Modification of requirements after construction has begun.* In those instances where amendments to site development plans are approved by the City Commission after construction has begun on a site, the City Manager or designee may modify the provisions of this chapter in individual cases in order to avoid undue hardship. However, a diligent effort will be made to assure that the site development standards of this chapter are met to the maximum extent possible.

Sec. 21-17. Variances. [Added 6-26-1995 by Ord. No. 95-5]

The City Commission may grant a variance from these landscaping regulations after consideration and recommendation by the Planning and Zoning Advisory Board and from the terms of this chapter when such variance will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. Such variance shall not be granted if it has the effect of nullifying the intent and purpose of this chapter. Furthermore, such variance shall not be granted by the City Commission unless and until:

- A. A written application for a variance is submitted to the department responsible for land development services demonstrating:
- (1) That special conditions and circumstances exist which are peculiar to the land, structures or required subdivision improvements involved and which are not applicable to other lands, structures or required subdivision improvements;
 - (2) That a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties with similar conditions;

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- (3) That the special conditions and circumstances do not result from the actions of the applicant; and
 - (4) That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or required subdivision improvements under similar conditions. No pre-existing conditions on neighboring lands which are contrary to this chapter shall be considered grounds for the issuance of a variance.
- B. The Planning and Zoning Advisory Board and City Commission shall make findings that the requirements of this section have been met.
 - C. Notice of public hearings shall be given at least fifteen (15) days in advance of the public hearings before the Planning and Zoning Advisory Board and City Commission. The owner of the property for which a variance is sought, or his agent or attorney designated by him on his petition, shall be notified by mail. Notice of the public hearing shall be advertised in a newspaper of general circulation in the City at least one (1) time fifteen (15) days prior to the hearings before the Planning and Zoning Advisory Board and City Commission. The public hearings may be held prior to the presentation for approval of the subdivision plan.
 - D. In addition to the notice provided for in subsection C above, notice of the time and place of the public hearing before the City Commission shall be sent at least fifteen (15) days in advance of the hearing by mail to all owners of property within three hundred (300) feet of the property lines of the land for which a variance is sought (in properties greater than one (1) acre, the three hundred (300) feet distance shall be one thousand three hundred twenty (1,320) feet); provided, however, that where the land for which a variance is sought is part of, or adjacent to, land owned by the same person, the three hundred (300) foot or one thousand three hundred twenty (1,320) foot distance shall be measured from the boundaries of the entire ownership, except that notice need not be mailed to any property owner located more than one-half ($\frac{1}{2}$) mile (two thousand six hundred forty (2,640) feet) from the land for which a variance is sought. If any dwelling unit within the required three hundred (300) foot or one thousand three hundred twenty (1,320) foot notification radius is within a property owners' association, the property owners' association must be notified. For the purposes of this requirement, the names and addresses of property owners shall be deemed those appearing on the latest tax rolls of Sarasota County. Notwithstanding any other provision herein contained, failure to provide written notice to adjacent property owners shall not constitute a jurisdictional defect, provided that proper legal notice has been published.
 - E. After receipt of a report from the City Manager or designee summarizing the City staff findings, the Planning and Zoning Advisory Board and City Commission shall further make a finding that the reasons set forth in the application justify the granting of the variance that would make possible the reasonable use of the land, buildings or other improvements.
 - F. The Planning and Zoning Advisory Board and Commission shall further make a finding that the granting of this variance would be in harmony with the general purpose and intent of this chapter, will not be injurious to the surrounding territory or otherwise be detrimental to the public welfare.
 - G. In granting any variance the Planning and Zoning Advisory Board and City Commission may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards when made apart of the terms under which the variance is granted shall be deemed a violation of this chapter.
 - H. Appeals. Any person aggrieved by the City Commission's decision regarding any variance or exception may file a petition for a writ of certiorari in the Circuit Court of Sarasota County within thirty (30) days of such decision.

Sec. 21-18. Enforcement. [Amended 6-26-1995 by Ord. No. 95-5]

The provisions of Chapter 2, Article IX, Code Enforcement, of the Code of the City of North Port, and the procedures and penalties contained therein, are hereby adopted and incorporated into and made a part hereof by reference.

Sec. 21-19. Interpretations.

Interpretations of this section shall be made by the City Manager or designee.

Sec. 21-20. Conflicts.

Whenever the requirements of these regulations differ from those imposed by the City, Federal, or State regulation, law or statute, the most restrictive or imposing the higher standards shall govern.

Sec. 21-21. Appeals.

Any person aggrieved by the City Manager or designee's interpretation may appeal to the Planning and Zoning Advisory Board. The criteria for granting an appeal shall be based upon substantial competent evidence proving that the interpretation renders the landscaping inconsistent with the general design principles, see Sec. 21-4(B). After review by the Planning and Zoning Advisory Board, all comments and advisory recommendation will be forwarded to the City Commission. The City Commission will hear the appeal at its regularly scheduled meeting and render a decision. The granting of any appeal shall not be in conflict with State Statutes. The City Commission's decision, based upon the evidence submitted to the Planning and Zoning Advisory Board, may be appealed to the Circuit Court of Sarasota County within thirty (30) days of such decision.

- (1) Applications for an appeal shall be filed pursuant to Sec. 1-10.

Sec. 21-22. Severability.

If any section, subsection, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Chapter 45 TREE PROTECTION REGULATIONS

[HISTORY: Adopted by the City Commission of the City of North Port 4-8-2002 by Ord. No. 2002-16. This ordinance also repealed former Ch. 45, Tree Protection Regulations, adopted 9-17-1990 by Ord. No. 90-28 (Section 7), as amended. Amendments noted where applicable.] [Amended 11-26-2007 by Ord. No. 07-47]

For the purpose of this chapter FOOTPRINT OF HOUSE will include the gross area of exterior walls of the primary structure, including the area of all windows and door installed therein. Also included are the areas of required amenities, such as driveway, drain field, septic tank, well and water lines. A ten (10) foot clearance from the exterior walls and each required amenity will be granted to ensure proper growth of the tree and will help to eliminate damage to the structures in the future.

GENERAL REFERENCES

Trees — See Ch. 210.

[Sec. 45-1. Title.](#)

[Sec. 45-2. Findings of fact.](#)

[Sec. 45-3. Relationship to Comprehensive Plan.](#)

[Sec. 45-4. Intent.](#)

[Sec. 45-5. Prohibitions.](#)

[Sec. 45-6. Tree removal permit exemptions.](#)

[Sec. 45-7. Permit criteria, procedures and fees.](#)

[Sec. 45-8. Tree canopy development standards.](#)

[Sec. 45-9. Administrative variance.](#)

[Sec. 45-10. Tree protection during development.](#)

[Sec. 45-11. Tree replacement, relocation and mitigation.](#)

[Sec. 45-12. Heritage and champion trees.](#)

[Sec. 45-13. Establishment of tree fund.](#)

[Sec. 45-14. Enforcement, penalties for offenses, appeals.](#)

[Sec. 45-15. Jurisdictional applicability.](#)

[Sec. 45-16. Emergency tree removal.](#)

[Sec. 45-17. Effective date.](#)

[Sec. 45-18. Tree planting incentive.](#)

[Sec. 45-19. Priority tree list.](#)

[Sec. 45-20. Street tree requirements.](#)

Sec. 45-1. Title.

This chapter shall be known and may be cited as the "Tree Protection Regulations" of the City of North Port, Florida.

Sec. 45-2. Findings of fact.

Studies have established and the City of North Port, Florida, now finds and determines that trees:

- A. Are proven producers of oxygen, a necessary element for the survival of mankind;
- B. Appreciably reduce the ever-increasing and environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air;
- C. Play an important role in the hydrologic cycle, transpiring considerable amounts of water each day, and they precipitate dust and other particulate airborne pollutants from the air;
- D. Play an important role in cleansing stormwater runoff which passes from the surface to groundwater;
- E. Stabilize the soil and play an important and effective part in soil conservation and erosion and flood control;
- F. Are an invaluable physical and psychological addition to making life more comfortable by providing shade and cooling air, reducing noise levels and glare, and breaking the visual monotony of development on the land;
- G. Provide wildlife habitat and fulfill other important ecological roles;
- H. Provide shade and thereby reduce energy consumption;
- I. Abate noise and create attractive buffering between incompatible land uses;
- J. Furnish a canopy to protect other vegetation from the elements;
- K. Are critical to the present and future health, safety and welfare of the citizens of North Port;
- L. Preservation of trees adds an economic benefit to the City's tax base; and
- M. Preservation of trees contributes to the beauty of the urban environment.

Sec. 45-3. Relationship to Comprehensive Plan.

The Tree regulations in this chapter implement Objective 3 of the Conservation and Coastal Zone Management element of the Comprehensive Plan, which states that, "The City shall encourage the preservation of existing native vegetation, the creation of an urban forest, and the use of xeriscape methods for landscaping public and private development. Tree preservation activities and the planting of trees shall result in an overall, citywide, phased-in, tree canopy no later than build-out that ranges from thirty-five percent (35%) to eighty percent (80%) of the tree canopy that existed at the time of adoption of this Comprehensive Plan in 1997," as well as the following policy statements hereunder:

"Policy 3.1: Every three to five years the City shall review, and amend as applicable, the Land Development Regulations applying to tree protection and landscaping guidelines for development to promote the preservation and use of native and drought tolerant species in landscaping in order to reduce the depletion of the surficial aquifer."

"Policy 3.2: The City will continue to review landscape/tree ordinances from other communities and, further, review tree protection/preservation initiatives that would benefit the City. Based upon these reviews, revisions to the tree protection and landscape code shall be implemented."

"Policy 3.3: The Land Development Regulations shall continue to prohibit the planting of exotic noxious vegetation such as *Melaleuca quinquenervia*, Brazilian Pepper (*Schinus terebinthifolius*), and Australian Pine (*Casurina*) as listed by state authorities."

"Policy 3.4: The City shall utilize the incentive program provided in the Land Development Code for developers/builders to provide appropriate trees to the City when a lot is cleared for development and

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the developer/builder removes existing native trees. Further, the City shall be aggressive in its enforcement of violations to the tree and landscape code.["]

"Policy 3.5: The City shall plant trees, on City property only, according to the following priorities:

1. In existing neighborhoods to replace dead or dying street trees.
2. In existing neighborhoods to complete existing street tree patterns.
3. On parks sites, open space areas, or other appropriate public areas to provide shaded picnic or pedestrian walkways.
4. In gateway areas, as defined in the Future Land Use Element. Upon adoption of this policy, the City shall prioritize this sub-policy by planting a maximum of 25% of developer/builder provided trees to gateway areas for a two year period.
5. On sites containing public buildings frequented by citizens such as City Hall, Multi-purpose building, etc.
6. Along arterial and collector roadways that traverse the City."

"Policy 3.6: Recognizing that factors, both natural and man induced, will result in the diminution of the City's natural forest/tree canopy as the City continues to grow, the City shall, through policies, regulations, and programs strive to develop an urban forest comprised of a mix of native forest land and planted trees which maintains or enhances the City's tree canopy to levels equivalent to 35% - 80% of the tree canopy that existed at the time of adoption of this Plan in 1997."

"Policy 3.7: Prior to 2011, the City shall conduct a study to determine the approximate percentage of coverage offered by the City's tree canopy at the time of adoption of this Plan in 1997."

Sec. 45-4. Intent.

The provisions of this Chapter 45 are intended and shall be construed, implemented and enforced to achieve the following public purposes:

- A. Preserve existing trees;
- B. Develop a mix of native forests and planted trees which shall maintain or enhance the City's tree canopy at buildout of the City. The 1995 USGS Digital Ortho Quarter Quads, or other measurement tools are provided by the Florida Forestry Service and approved by the City Manager or designee. The USGS quad maps are available electronically at the City of North Port Planning and Zoning Department or on the City's website. The City shall make copies of the electronic files available at a reasonable cost;
- C. Take full advantage of the benefits of trees to the community listed in Sec. 45-2 above;
- D. Some tree species are more beneficial than others as necessary contributors to the City's environment and it is not necessary to protect each and every species in order to attain the public benefit of a tree protection and replacement ordinance;
- E. Establish a comprehensive tree management program for the planting, pruning, care, maintenance and preservation of trees, plants, vegetation and shrubs on public property, places and rights-of-way within the City;
- F. Designate the City of North Port Beautification and Tree Council as the advisory organization to counsel the City Commission on matters relating to the planting, care, maintenance, and preservation of trees, plants, vegetation and shrubs on public property, places and rights-of-way within the City; and
- G. To provide a smooth transition from the rural environment to the built environment.

Sec. 45-5. Prohibitions.

- A. It shall be a violation of this chapter for any person or persons to remove or cause any tree or trees to be removed from any property within the City without first obtaining a tree removal permit in accordance with the provisions of this chapter, unless otherwise exempt under Sec. 45-6. This prohibition extends to all vacant and undeveloped property on which any form or type of new development, construction, renovation or demolition is to occur.
- B. For lots and parcels one (1) acre or greater in size, trees planted in the defensible space (as defined in this chapter) shall meet the guidelines and criteria established by the University of Florida Cooperative Extensive Service, Protecting Your Home From Forest Fires and Developing Land in Florida with Fire in Mind: Recommendations for Designers, Developers and Decision Makers. Documents are available at the City of North Department responsible for land development services and on the web: <http://edis.ifas.ufl.edu>. Hardwood trees shall be the only species permitted in the thirty-five (35) foot area defined as the defensible space. (Homeowners are encouraged to follow all of the guidelines contained in the documents.)
- C. Tree removal on any lot or parcel is not permitted unless associated with a development permit specified in Sec. 45-7.
- D. The topping of any tree or sculpting the trees into a desired shape other than the natural shape shall be prohibited.
- E. Any trimming of mangroves shall be in compliance with all Federal, and State regulations and is prohibited without the prior approval of the Department of Environmental Protection (DEP).

[Amended 9-23-2013 by Ord. No. 2013-19]

Sec. 45-6. Tree removal permit exemptions.

All zoning districts, residential and non-residential, shall be required to meet a minimum standard of thirty-five percent (35%) canopy coverage at maturity. This standard shall apply to all individual lots, parcels, and/or large developments. Tree removal permit exemptions shall apply to the following:

- A. Tree removal and tree relocation on a residential lot, after a certificate of occupancy has been issued for the residential dwelling(s). This exemption shall not apply to the following:
 - (1) Conservation or land preservation areas.
 - (2) Trees planted or relocated pursuant to a tree permit.
 - (3) Satisfaction of an approved landscape plan.
 - (4) Where the residential dwelling is to be demolished and reconstructed.
 - (5) Any heritage tree on any property.
- B. Voluntary annexation petitions.
- C. Tree removal necessary for the construction of public roads, public utilities, public landfills or public stormwater facilities.
- D. Tree removal necessary for the maintenance of existing roads, utilities or stormwater facilities within rights-of-way easements, performed or contracted by any government entity or duly authorized utility.
- E. Agricultural land.
 - (1) A lot or portion thereof that is classified by the Sarasota County Property Appraiser as bona fide agricultural land under the agricultural assessment provisions of F.S. § 193.461 and where tree removal is undertaken solely for agricultural purposes. This exemption shall not apply to any tree removal in preparation for, or in anticipation of, any development or any

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construction of nonagricultural improvements. For the purposes of this chapter, evidence of such preparation, anticipation or application includes:

- (a) Building permit for nonagricultural use.
 - (b) Special exception.
 - (c) Rezone.
 - (d) Development of regional impact.
 - (e) Site and development plan.
 - (f) Subdivision plan.
 - (g) Master plan.
 - (h) Other development approval.
- (2) Submittal of plans listed in this section within six (6) years of the date of tree removal permit shall invalidate this exemption and require an after-the-fact and/or mitigation in accordance with this chapter.
- F. Plant or tree nurseries with regard to only those trees grown on the premises and specifically for sale to the general public in the ordinary course of such plant or tree nurseries' businesses.
- G. Tree farms consisting of planted stands of pine or other commercial-managed species on private property and with regard to only those trees that are being grown and managed for sale as pulp, paper, or timber products, or a site in which trees are grown as an agricultural product for the nursery industry. A natural stand of pines is eligible to qualify for an exemption if the property owner can clearly demonstrate that the pine stand has been managed for a minimum of two (2) years for timber production in compliance with a timber or forest management plan filed with and approved by either the State of Florida Division of Forestry, the Natural Resources Conservation Service or a consulting forester.
- H. Removal of any species as specified in Sec. 21-6 of this Unified Land Development Code.
- I. Dead trees. A letter and photograph, which is taken within ten (10) days of date of letter, shall be submitted to the City Manager or designee one (1) week prior to tree removal informing City that tree is being removed. All existing single-family and duplex residential development properties are exempt from this requirement.
- J. Any plans or actions undertaken by a governmental agency or an agency's authorized agent(s).
- K. Fire fighting and prescribed burning authorized by a governmental agency or agency's authorized agent(s).
- L. Governmental personnel or agencies in the performance of their official duties and meeting the requirements of Sec. 45-16.

[Amended 9-23-2013 by Ord. No. 2013-19]

Sec. 45-7. Permit criteria, procedures and fees.

- A. Unless exempt under Sec. 45-6 above, no person shall remove or cause to be removed any tree or trees from any property within the City or begin any type of construction, development, renovation or demolition thereon without a tree removal and protection permit issued by the City. Violation of these regulations shall constitute a fine as set forth in subsections below.
- B. It is the intent of this section that no permit shall be granted for the removal of any tree where the applicant has failed to design and locate all proposed improvements to minimize the removal of trees consistent with the use of the property allowed by the Unified Land Development Code (ULDC), as amended, and the applicable elements of the City Comprehensive Plan, Ordinance No. 97-27, as

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amended. Accordingly, tree removal and protection permits shall only be issued when any of the follow criteria is met, and if applicable, project phasing is clearly identified in an approved development order, as tree removal permits shall be issued by phase only:

- (1) The trees pose a safety hazard to pedestrian or vehicular traffic or unmanageably threaten to cause disruption to utility services;
 - (2) The trees pose an immediate safety hazard to buildings, structures or other improvements. Immediate safety hazard referred to herein means hazards such as disease, decay, and/or structural instability as determined by the City Manager or designee.
 - (3) The trees prevent reasonable vehicular access to a lot;
 - (4) A statement that the trees unreasonably prevent development of a lot or the physical use thereof, or if State or local regulations require fill to the extent that trees cannot be saved and the required elevations are certified by the project engineer; or
 - (5) A statement by a qualified arborist or other professional as approved by the City Manager or designee that the trees are diseased or are weakened by age, storm, fire or other injury or as a result of suppression by other trees or vines or site conditions to the extent that they have lost most of their function and value or pose a danger to persons, property, improvements or other trees. It is the intent of this provision that no permit shall be granted for the removal of any tree if the hazard can be abated by any other reasonable means.
 - (6) Meets the tree removal criteria in Sec. 45-8.
- C. Application; environmental assessment report in lieu of application.
- (1) In order to obtain a tree removal permit, an application meeting the requirements established by this chapter shall be submitted to the City Manager or designee for review and appropriate action prior to or concurrent with the submission of:
 - (a) Building permit application.
 - (b) Upon approval of appropriate development order for:
 - (i) Minor site and development plan.
 - (ii) Major site and development plan.
 - (iii) Subdivision plan, infrastructure areas only.
 - (iv) Special exception approval.
 - (c) All building permits; minor, and major, site plans; and special exception applications as stated above shall include copies of approved local, State, and Federal permits.
 - (2) For all proposed zoning changes, an environmental assessment report, prepared by a professional environmental scientist, shall be submitted in lieu of a tree removal and protection permit application. The City Manager or designee shall approve the scope of the environmental assessment report.
- D. Any written application submitted to the City Manager or designee shall authorize City staff to enter onto and inspect the property of the applicant to determine if the applicant is in compliance with the provisions of this chapter.
- E. This section applies to fees for tree removal where a permit has been issued based on an inaccurate tree location survey or tree inventory plan, and does not apply to removal of trees without a permit. If trees have been removed without a permit, Sec. 45-14 shall apply. A tree location survey or tree inventory is required for all development applications which shall be simultaneously submitted with the tree removal permit application and shall be at the same scale as the plans that show the location of the proposed development. Tree location surveys or tree inventory plans shall be incorporated in a site plan that provides the following information:

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- (1) The shape and dimensions of the property, together with existing and proposed locations of structures, utilities (i.e., power lines, water, sewer) and other improvements, if any;
 - (2) Locations of existing trees four and one-half (4½) inches diameter at breast height (DBH) or greater, identified by common or botanical name. Trees proposed to remain, to be transplanted, or to be removed shall be identified. Groups of trees in close proximity (five (5) feet spacing or closer) may be designated as a "clump" of trees, with the predominate species, estimated number and average DBH and total DBH listed. Limited clearing may be necessary to provide proper preparation of the tree location survey, however, only minimal disturbance shall be permitted according to accepted industry standard of care (mowing or bush hogging to provide foot access only);
 - (3) If existing trees are to be transplanted, the proposed relocation for such trees, together with a statement as to how such trees are to be protected during land clearing and construction and maintained after construction;
 - (4) A statement indicating how trees not proposed for removal or relocation are to be protected during land clearing and construction;
 - (5) Locations and dimensions of all setbacks and easements required by the Unified Land Development Code of the City;
 - (6) Statements as to grade changes proposed for the property and how such changes will affect trees;
 - (7) Any proposed tree replacement; and
 - (8) The total number, type and location of trees proposed for removal in tabular form.
 - (9) Counted trees shall be marked with a four (4) inch "X" with a surveyor's keel or with a ribbon.
 - (10) For any tree that is missed in the count the City shall assess a mitigation fee of twenty-five dollars (\$25.00) per tree.
 - (11) For any heritage tree that is missed in the count, the City shall assess a mitigation fee of one hundred dollars (\$100.00) per tree.
 - (12) Administrative processing fee for tree inventories are listed below. Land clearing fees are in addition to the following inventory fees:
 - (a) Lots ten thousand (10,000) square feet or less: Seventy-five dollars (\$75.00).
 - (b) Lots ten thousand one (10,001) square feet up to one (1) acre: One hundred twenty-five dollars (\$125.00).
 - (c) Residential parcels one (1) acre to five (5) acres: One hundred fifty dollars (\$150.00) per acre.
 - (d) Commercial parcels one (1) acre or above: Two hundred dollars (\$200.00) per acre.
- F. In the event there are no trees on the property, the applicant may, in lieu of a tree location survey or tree inventory plan, submit a notarized statement to that effect. The City shall verify any such statement by an on-site inspection of the property.
- G. Upon receipt of a complete application and all required supporting documentation, the City Manager or designee shall conduct a field inspection to determine if the information is sufficient for review and if the proposed plan is in compliance with the provisions of this chapter.
- (1) The review for single- and two-family lots shall be made within ten (10) calendar days of receiving a completed application.
 - (2) The review for other parcels shall be made within ten (10) calendar days of receiving a completed application.

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- (3) Upon completion of the review, the City Manager or designee shall notify the applicant that the application is either insufficient, does not comply with the provisions of this chapter or that the permit is approved or approved with stipulations and/or conditions.
- H. Should an additional tree or trees need to be removed after a permit has been issued, the applicant shall obtain an amended permit prior to the removal pursuant to subsection (G) above. This amended permit shall be reviewed within five (5) calendar days. Failure to amend the permit prior to removal of the tree shall constitute a violation of this chapter and shall be assessed two hundred fifty dollars (\$250.00) per tree removed.
- I. If a tree to be retained dies after a tree removal permit has been issued but before the issuance of a certificate of occupancy, the applicant shall notify the City Manager or designee and request an inspection prior to the removal of the dead tree(s). An inspection will be made within seventy-two (72) hours of notification by the applicant. Failure to notify the City Manager or designee prior to the removal of any dead tree constitutes a violation of this chapter and shall be assessed two hundred fifty dollars (\$250.00) per tree removed.
- J. Before any certificate of occupancy is issued, the City Manager or designee shall conduct a final tree inspection of the property to ensure that the provisions of this chapter have been complied with. Final inspections shall be scheduled by the applicant and will be completed within two (2) calendar days after notification by the applicant after grade is complete.
 - (1) No certificate of occupancy shall be issued until all provisions of this chapter have been fully complied with.
- K. Tree removal shall only be performed by the resident homeowner, a person(s) under the homeowner's direct control or a contractor licensed by the City.
- L. The City Commission shall, by resolution, set reasonable fees and charges for the implementation of this chapter, which will substantially finance the expenses of tree protection-related activities.
 - (1) Anyone who commences development, construction, renovation or demolition without obtaining a permit shall be required to obtain an after-the-fact permit at double the regular permit fee or a five hundred dollars (\$500.00) fine, whichever is greater, for residential, and/or mitigate the impact of said action in accordance with the provisions of Sec. 45-11 of this chapter.
 - (2) However, payment of such after-the-fact permit fees or mitigation shall not preclude nor be deemed a substitute for prosecution of violations of this chapter.
- M. The tree removal and protection permit shall be prominently posted on the subject property for the duration of the clearing activity and shall be present at the zoning rough inspection. Failure to post such a permit as specified above shall result in a fine of one hundred dollars (\$100.00) and immediate discontinuation of all construction activity.

[Amended 9-23-2013 by Ord. No. 2013-19]

Sec. 45-8. Tree canopy development standards.

- A. All zoning districts shall be required to meet a minimum standard of thirty-five percent (35%) canopy coverage at maturity. This standard shall apply to all individual lots, parcels and/or large developments. The following options are available in all zoning districts to achieve the thirty-five percent (35%) canopy coverage.
 - (1) Preserve existing trees sufficient to meet the canopy coverage.
 - (2) Preserve a portion of existing trees and supplement with new trees.
 - (3) Clear entire lot or parcel and plant new trees.

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- (4) The property owner shall be responsible for the continuing maintenance and replacement of unhealthy or dead trees. Tree canopy development standards do not expire upon the issuance of the final certificate of occupancy or the certificate of completion.
 - (5) To receive credit for canopy requirements, trees shall be located within the immediate area or phase for which trees are required. Trees in a different or future phase may not be counted as tree canopy in the current development phase.
- B. If a property owner in a residential subdivision, Residential Single-Family (RSF), Residential Manufactured Home (RMH), or Agricultural (AG) Zoning District desires to construct a home or has constructed a home and wishes to clear the entire lot without replanting of trees, the property owner may:
- (1) Clear the entire lot or parcel and pay a mitigation fee calculated by using the cost of a potted live oak installed at three hundred dollars (\$300.00) per tree. The requirements shall be calculated on two (2) trees for the first seven thousand five hundred (7,500) square feet and one (1) tree for each additional two thousand five hundred (2,500) square feet.
 - (2) Clear a portion of the lot, supplement with new trees and pay mitigation fees if the required canopy coverage cannot be met, calculated pursuant to Sec. 45-8(B)(1) above.

[Amended 9-23-2013 by Ord. No. 2013-19]

Sec. 45-9. Administrative variance.

Administrative variances shall only be used to promote site plan flexibility on residential and commercial parcels and/or lots for the express purpose of tree preservation. The City Manager or designee shall only issue administrative variances for front, side and/or rear yard setbacks for projects meeting the criteria in this section. Administrative variances shall not be issued for easement encroachments. Applicants requesting administrative variances shall submit a site plan and written statement(s) using the Maximum Setback Encroachment Permissible Table and addressing the following criteria:

- A. Setback encroachment necessary to preserve tree(s) meeting definitions in this chapter: Greater than four and one-half (4½) inches diameter at breast height (DBH).
- B. Setback encroachment shall not create an undue burden to adjacent property owners.
- C. Statement of how tree(s) shall be protected and preserved.
- D. Statement that tree(s) shall not be removed after the variance is issued unless tree(s) meets exemption criteria in this chapter or a tree removal permit is submitted.
- E. Any tree(s) removed after an administrative variance is issued and without a tree removal permit shall be subject to all of the violation enforcements in Sec. 45-14.
- F. Administrative variances are based on twenty-five percent (25%) setback encroachments. At the sole discretion of the City Manager or designee, additional variance area may be granted.

Maximum Setback Encroachment

Zoning District	Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)	Waterfront Yard (feet)

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RSF-2	6.25	6.25	Interior: 2.5	N/A
			Abut road: 3.75	
			Waterfront: 6.25	
			Abut road: 3	
			Waterfront: 6.25	
RSF-3	6.25	6.25	Interior: 1.5	N/A
			Abut road: 3	
			Waterfront: 6.25	
RTF	6.25	6.25	Interior: 2	N/A
			Abut road: 3.75	
			Waterfront: 6.25	
RMF	6.25	6.25	2.5 (½ bldg. height not < 10) Abut road: 6.25	Prior to 9/17/1990: all areas (platted/unplatted) w/ a twenty-foot drain./util. easement: 5. New subdivisions platted after 9/17/1990: 6.25
RMH	3.75	2.5	Interior: 1.25	N/A
			Abut road: 2.5	
AG	10	10	10	10
CG	6.25	3.75 (Lots > 200 in depth)	Interior: 0	5
			Abut road: 3.75	
GU	6.25	5	2.5	5

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ILW	6.25	Interior: 2.5	Interior: 0	5
			Abut road: 2.5	Abut road: 3.75
			Abut water: 5	Abut water: N/A
OPI	10	5	5	N/A
PCD	Grp. 1:10	Grp. 1: 5	Grp. 1: 5	Grp. 1: N/A
	Grp. 2: 10	Grp. 2: 5	Grp. 2: 5	Grp. 2: N/A
	Grp. 3:	Grp. 3: 2.5	Grp. 3: 2.5	Grp. 3: N/A
	6.25	Grp. 4: 5	Grp. 4: 5	Grp. 4: N/A
	Grp.4: 10	Grp. 5: 5	Grp. 5: 5	Grp. 5: N/A
	Grp.5: 10			

Sec. 45-10. Tree protection during development.

- A. Prior to and during land clearing, the owner, developer or agent shall clearly mark (with colored flagging) all trees proposed to be removed and shall erect barricades around all trees to be protected. The barricades shall remain in place and be in good condition throughout construction. Barricades may be removed for the final grading; this does not relieve the purpose of the protective zone, all tree standard precautions shall be adhered to. Removal of other vegetation within the protected zone (area around trees to be saved) may be accomplished only by mowing or hand clearing. If improvements are to be located within the protected zone of trees, clearing by machinery will be allowed, but only in the area and to the extent necessary to install the improvements. The owner, developer or agent shall not cause or permit the movement of equipment or the storage of equipment, material, debris or fill to be placed within the required protective barrier.
- B. During the construction stage, the owner, developer or agent shall not cause or permit the cleaning of equipment or material or the storage or disposal of waste materials such as paints, oils, solvents, asphalt, concrete, mortar or any other material within the dripline of any tree or group of trees.
- C. No damaging attachment wires, signs or permits may be attached or fastened to any tree, other than support wires for a tree.

- D. Barricades shall be erected at the drip line unless prior arrangements have been made via an on-site meeting with the City Manager or designee to agree on other preservation techniques for the protection of the root zone. Tree protection fencing shall be wood, plastic, or chain-link fencing. The posts shall be driven into the ground to hold the fencing in an upright position throughout the construction on the site. Other measures may include but are not limited to: reducing the area on one (1) or more sides of the barricade, root pruning, installing protective mulch layer or pruning of canopy for accessibility. These techniques shall be agreed upon in writing and shall be posted with the land clearing permit. If the barricades are not kept up or are not put up, fines will be assessed in accordance with the Building Department's re-inspection fees included in the City-wide fee schedule as may be amended from time to time.
- E. In lieu of erecting barricades as required in subsection D above, large property areas containing trees and separated from construction or land clearing areas by road rights-of-way, lakes, retention areas and utility easements may be barricaded by placing stakes not more than fifty (50) feet apart, connecting the stakes with a line of string, and tying colored ribbon to the string; or using three (3) inch wide, heavy gauge barricade tape from stake to stake along the outside perimeters of such areas to be cleared.
- F. Silt barriers, hay bales, or similarly effective erosion control barriers will be required in any area where erosion or siltation may cause damage to trees.
- G. Where elevation changes are proposed within the protected zone of trees, the applicant will be required to install retaining walls or drain tiles unless the applicant demonstrates that such protection would be impractical. The applicant shall have the choice of the type or design. These root protection measures shall be in place prior to the deposition of fill or excavation of soil from the protected zone.
- H. The City Manager or designee shall conduct periodic inspections of the site during land clearing and construction in order to ensure compliance with this chapter.
- I. The applicant(s) is required to remove all felled plant material and/or rubbish from site within ten (10) days of felling.

Sec. 45-11. Tree replacement, relocation and mitigation.

- A. Replacement trees.
 - (1) Except for the exemptions provided under Sec. 45-6, replacement tree(s) shall:
 - (a) Be an approved tree from the tree priority list;
 - (b) Be a minimum of eight (8) feet high and three (3) inch caliper measured six (6) inches above the ground when planted;
 - (c) Have the potential to meet the tree canopy requirements pursuant to Sec. 45-8;
 - (d) Be Florida Department of Agriculture Nursery Grade No. 1 or better as per Grades and Standards for Nursery Plants;
 - (e) Be placed so that they will develop freely and when mature will not crowd utility lines or other structures;
 - (f) Have a root ball planted at the proper height and in accordance with accepted nursery standards;
 - (g) Have a mulched bed at least three (3) feet in diameter and three (3) inches deep and set back six (6) inches from the base of the tree to conserve water, promote growth, and prevent disease; and
 - (h) Be staked, when necessary, in a way that will not injure the tree with broad straps of soft material around the trunk tied loosely enough to allow the trunk to move in the wind.

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- (2) Selection of the species of replacement tree(s) shall come from the Priority Tree List. A list of acceptable replacement trees (tree priority list) will be on file in the Building Department. Alternatives, with respect to size and species, may be approved if the applicant demonstrates that such substitutions will be consistent with the purposes and intent of this chapter. Written approval from the City Manager or designee is required prior to planting any alternative tree.
- B. Heritage tree mitigation fees. Fees shall be assessed on a diameter at breast height (DBH) inch for the trees meeting the minimum DBH requirement for protection under this chapter.
 - (1) In no event shall the mitigation fee for any one (1) tree be less than one hundred dollars (\$100.00) per inch at DBH. In addition, a one hundred dollars (\$100.00) fee for labor and handling shall be assessed per tree and the cost of replacement trees.
 - (2) Any tree up to twenty-nine and seven-eighth (29 7/8) inches DBH does not require mitigation.
 - (3) Any tree between four and one-half (4½) inches and twenty-nine and seven-eighth (29 7/8) inches that is preserved will receive a tree credit toward the thirty-five percent (35%) minimum canopy requirement only, unless found in the footprint of what is proposed to be built.
- C. In order to fulfill the primary stated intent of Chapter 45 to preserve existing trees, the following incentives are available to satisfy the thirty-five percent (35%) canopy coverage requirement identified in Sec. 45-8.
 - (1) Tree credits will be given in accordance to canopy coverage shown on the Priority Tree List.
 - (2) Preservation of a heritage tree will allow for double the canopy coverage shown on the Priority Tree List.
- D. In lieu of paying mitigation fees, the applicant may donate property to the City as part of a tree/environmental mitigation program. Properties being considered for donation shall meet a City-identified need and be approved by the City Manager or designee. In evaluating the property for donation, the City Manager or designee shall consider these criteria: percentage of tree canopy and location of the property adjacent to any waterway identified as the Myakkahatchee Creek or public preservation areas.
 - (1) Property donated pursuant to this subsection shall not be eligible for development of any kind except for passive recreational use such as hiking trails, canoe/kayak launches, bird watching, etc.
- E. Timing and location. Trees required by this chapter to be replaced or relocated shall be properly planted, mulched and staked and showing no signs of distress prior to the issuance of a certificate of occupancy and shall not be located closer than three (3) feet to any property line if it causes an obstruction to the drainage system or six (6) feet from any utility line or City easement. Replacement trees shall not be planted underneath or near overhead utility lines unless they are a species that, when mature, will not interfere with the utility line.
 - (1) The planting site shall have sufficient root zone and canopy space to allow the tree(s) to grow to a mature size.
- F. Tree survival. Consultation with the City Manager or designee is required during the entire tree planting process. The City assumes no liability for the survival of any trees.
 - (1) The property owner shall be responsible for the continuing maintenance and replacement of unhealthy or dead trees. Tree canopy development standards do not expire upon the issuance of a certificate of occupancy or a certificate of completion.
 - (2) Single-family and duplex development(s) are exempt from warranty requirements and bond but shall maintain thirty-five percent (35%) canopy coverage.
 - (3) The City Arborist will do random inspections to ensure the survival of planted trees.
- G. When a heritage tree falls in to the footprint of a roadway that is unable to be rerouted to save the tree on a commercial development as determined by the City, the developer may choose from the following options:

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- (1) Plant a tree caliper inch per inch replacement in the boundaries of the property, in addition to the thirty-five percent (35%) minimum canopy requirement.
 - (2) Pay the heritage tree mitigation fee as set forth in this chapter.
- H. Where heritage tree(s) fall in the footprint of the building of a commercial development, mitigation fees shall be paid as set forth in this chapter.

[Amended 9-23-2013 by Ord. No. 2013-19]

Sec. 45-12. Heritage and champion trees.

- A. The heritage designation is conferred on the large trees that are the major distinguishing feature of North Port's urban forest. All native tree species are designated heritage trees when they reach the size of thirty (30) inches diameter at breast height (DBH). In the case of multi-stemmed trees where there is union of wood above grade, the DBH shall be measured on each stem and added together to count as one (1) tree.
- (1) For all zoning districts, the permitting procedure and criteria for heritage trees shall be consistent with Sec. 45-7 and shall include the additional criteria enumerated below. In any event, the more restrictive permit procedure and criteria for heritage trees shall apply.
- B. Heritage trees additional permitting criteria.
- (1) Removal or relocation shall only be permitted by the City. The removal of any heritage tree as determined by the City, will require a permit for removal regardless of whether a certificate of occupancy has been granted.
 - (2) For proposed relocations of heritage trees, a tree management plan that includes a two (2) year survivability element shall be required. The management plan may include either a tree survey or tree inventory plan.
 - (3) For proposed removals, a tree inch for tree inch mitigation fee shall be in accordance with Sec. 45-11(B).
 - (4) Heritage tree mitigation will not be required for those trees located within the footprint of the residential unit. This applies only to situations where there is not an alternative to re-position the residential unit location on the lot to avoid removal of the tree.
- C. Champion tree: identified by the State Division of Forestry as being the largest of their species within the State or by the American Forestry Association as the largest of their species in the United States.
- (1) For all zoning districts, the permitting procedure and criteria for champion trees shall be consistent with Sec. 45-7 and shall include the additional criteria enumerated below. In any event, the more restrictive permit procedure and criteria for champion trees shall apply.
 - (2) Champion tree additional permitting criteria.
 - (a) A tree condition and assessment report by an environmental scientist that identifies the extent of the root system, boundary of dripline and management plan. A tree survey accompanied by an aerial meeting the criteria of this chapter shall be included in the report.
 - (b) No development shall occur within the dripline as established by the tree condition report.
 - (c) A champion tree is not eligible for removal or relocation.
 - (d) If a champion tree is located on a single-family or duplex lot platted prior to the adoption date of this chapter and prevents development, the City shall either trade property for a separate yet equal lot or acquire the lot(s) for public benefit.

[Amended 9-23-2013 by Ord. No. 2013-19]

Sec. 45-13. Establishment of tree fund.

There is hereby established a City of North Port Tree Fund to be administered by the City's Department of Financial Services. All mitigation fees and monetary fines for violations of this Ordinance or Chapter 21 of this Unified Land Development Code shall be deposited into this special Tree Fund. The Tree Fund shall be used to advance the stated intent of Chapter 45 by engaging in the following activities;

- (1) Purchasing property within the City to be used only for tree preservation purposes;
- (2) Planting trees from the Tree Priority List on public lands within the City according to the priorities identified in Policy 3.5 of the Conservation and Coastal Zone Management element of the Comprehensive Plan;
- (3) Educating the public on proper care of trees;
- (4) Maintaining tree health and safety on public lands within the City. Money used from the Tree Fund for the purpose of tree maintenance shall be used exclusively for those trees planted with Tree Fund money; and
- (5) Purchasing conservation easements on privately owned property within the City.

Sec. 45-14. Enforcement, penalties for offenses, appeals.

A. In order to ensure compliance with the provisions of this chapter, the City may:

- (1) Issue stop-work orders for any development, construction, renovation or demolition or portion thereof only where regulated trees are affected;
- (2) Withhold the issuance of any building or other permit unless the permit does not impact or exacerbate the violation and at the discretion of the City Manager or designee;
- (3) Withhold the issuance of any certificate of occupancy or required inspection;
- (4) Use any other enforcement remedy granted by the North Port Unified Land Development Code or the North Port Code;
- (5) Employ all available remedies in law or equity, including, but not limited to, injunctive relief to enjoin and restrain any person from violating its provisions, money damages and all costs and expenses of the litigation; and/or
- (6) Assess monetary fines or penalties.

B. Penalties for offenses. This section applies to any tree removal without a permit. [Amended 1-30-2012 by Ord. No. 2011-32]

- (1) Each unauthorized removal of a single tree protected by this chapter shall be a separate violation or offense.
- (2) In a case where clearing has occurred and the number of trees removed is unable to be determined by the City Manager or designee the penalties for offenses shall be as follows:

Residential: Two thousand five hundred dollars (\$2,500.00) fine shall be assessed per each ten thousand (10,000) square feet of lot/parcel or fraction thereof. In addition, the applicant shall secure an after-the-fact permit at double the permit fee, for permits other than a single-family dwelling built on a lot platted by General Development Corporation or Atlantic Gulf Corporation.

Non-residential: Five thousand dollars (\$5,000.00) per each ten thousand (10,000) square feet of lot/parcel or fraction thereof and required to plant four (4) replacement trees per ten thousand (10,000) square feet of lot/parcel and fraction thereof. In addition, the applicant shall secure an after-the-fact permit at double the permit fee. [Amended 1-30-2012 by Ord. No. 2011-32]

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- (3) In a case where clearing has occurred and the number of trees removed are able to be determined by the City Manager or designee:

Residential: Two hundred fifty dollars (\$250.00) per tree plus an after-the-fact permit at double the fee.

Non-residential: Five hundred dollars (\$500.00) per tree, plus the replanting of four (4) replacement trees per ten thousand (10,000) square feet of lot/parcel or fraction thereof. In addition, the applicant shall secure an after-the-fact permit at double the fee. [Added 1-30-2012 by Ord. No. 2011-32]

- (4) Each violation of this chapter for the illegal removal of a heritage or champion tree on any lot, parcel or tract of land, other than single-family, shall be the cost of the legal removal pursuant to regulations set forth in Sec. 45-12 and an additional five thousand dollars (\$5,000.00) and the planting of four (4) replacement trees or payment to the Tree Replacement Fund of the penalty and an amount equal to four (4) replacement trees plus actual staff costs, including, but not limited to, time, resources, material or expenses of investigation and administration caused by the violation. [Amended 1-30-2012 by Ord. No. 2011-32]
- (a) If there is evidence that a heritage tree existed but the actual size of the tree is unable to be determined, a ten thousand dollar (\$10,000.00) fine shall be assessed, plus the cost to legally remove a tree at thirty (30) inches times one hundred dollars (\$100.00) or three thousand dollars (\$3,000.00), the replanting of four (4) trees, and the cost of an after-the-fact permit at double the fee. [Added 1-30-2012 by Ord. No. 2011-32]
- (5) Fines and tree replacement shall be determined and assessed by the City Manager or designee, who shall give notification to the property owner or authorized agent and corrective action must be taken prior to commencement of additional work. [Amended 1-30-2012 by Ord. No. 2011-32]
- (6) Failure to pay assessed fines and/or plant tree replacements within thirty (30) days of receiving notice thereof shall be a separate violation of this chapter. This will result in the fine being double the original amount. No permits or certificates of occupancy shall be granted to the property owner and/or his or her agents while either such fine remains unpaid and/or tree replacements are unplanted. Failure to comply shall result in the fine doubling every ninety (90) days. [Amended 1-30-2012 by Ord. No. 2011-32]

Sec. 45-15. Jurisdictional applicability.

The provisions of this chapter shall apply and be effective throughout the incorporated geographical area and boundaries of the City of North Port.

Sec. 45-16. Emergency tree removal.

When it is necessary to expedite the removal of any trees in the interest of public safety, health, and general welfare following high winds, storms, hurricanes, tornados, floods, freezes, fires or other man-made or natural disasters, the City Commission may, by resolution, declare an emergency and suspend the requirements of this chapter for a period of up to thirty (30) days in the affected areas.

Sec. 45-17. Effective date.

This chapter and the provisions thereof shall take effect immediately upon adoption by the City Commission and allocation of funding to implement the ordinance.

Sec. 45-18. Tree planting incentive.

The City Administration shall develop a program to provide the original property owner(s) with the ability to replace trees that were removed and a mitigation fee was paid. The amount of this replacement shall not exceed the amount of the mitigation fee.

Sec. 45-19. Priority tree list.

See chart below.

Major Shade Trees: Canopy Potential at Maturity: 1,500 square feet						
N. America Native (+) Non Native (-)	Common Name	Latin Name	Spread	Hardiness/ Height	Range	Persistence
+	American Elm	<i>Ulmus Americana</i>	50-70	70-90	2A-9B	Deciduous
-	Chinese Elm	<i>Ulmus Parvifolia</i>	35-45	40-65	5B-10A	Deciduous
+	Winged Elm	<i>Ulmus Alata</i>	30-40	45-75	6A-9B	Deciduous
-*****	Eucalyptus	<i>Eucalyptus Sideroxylon</i>	35-50	35-70	10A-11	Evergreen
+	Pignut Hickory	<i>Carya Glabra</i>	25-35	50-75	4B-9A	Deciduous
+	Water Hickory	<i>Carya Aquatica</i>	50-60	50-90	6B-9A	Deciduous
+*****	Florida Mahogany	<i>Swietenia Mahogoni</i>	35-50	50-80	10B-11	Semi- Evergreen
+	Southern Magnolia	<i>Magnolia Grandiflora</i>	35-50	60-80	6B-10A	Evergreen
+	Red Mulberry	<i>Morus Rubra</i>	35-45	40-70	5A-9B	Deciduous
+	Live Oak	<i>Quercus Virginiana</i>	60-100	50-75	7B-10B	Semi- Evergreen
+	Shumard Oak	<i>Quercus Shumardii</i>	35-60	75-90	5B-9B	Deciduous

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-	Silk Oak	<i>Grevillea Robusta</i>	25-35	60-100	9B-11	Evergreen
+	Southern Red Oak	<i>Quercus Falcata</i>	60-70	60-80	7A-9B	Deciduous
+	Water Oak	<i>Quercus Nigra</i>	50-80	50-75	6A-10A	Semi-Evergreen
+	Sycamore	<i>Plantanus Occidentalis</i>	70-80	70-90	4B-9A	Deciduous

*****Denotes Trees Susceptible to Frost

Intermediate Shade Trees: Canopy Potential at Maturity: 1,000 square feet						
[Amended 1-30-2012 by Ord. No. 2011-32]						
N. America Native (+) Non Native (-)	Common Name	Latin Name	Spread	Hardiness/ Height	Range	Persistence
-	Red Bay	<i>Persea Borbonia</i>	25-40	30-65	7A-11	Evergreen
_*****	Camphor	<i>Cinnamomum Camphora</i>	45-65	50-60	9B-11	Evergreen
+	Catalpa	<i>Catalpa Speciosa</i>	35-45	35-70	4B-9A	Deciduous
+	Southern Red Cedar	<i>Juniperis Virginiana</i>	25-35	25-50	7B-10A	Evergreen
+	Bald Cypress	<i>Taxodium Distichtum</i>	25-35	50-75	4A-10B	Deciduous
+	Pond Cypress	<i>Taxodium Ascendens</i>	20-40	50-75	5B-10A	Deciduous
_*****	Jacaranda	<i>Jacaranda Mimosifolia</i>	40-50	35-50	9B-11	Deciduous

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-	Juniper	<i>Juniperus Chinensis</i>	15-25	40-50	4A-10A	Evergreen
+	Red Maple	<i>Acer Rubrum</i>	40-60	50-75	4A-10B	Deciduous
-	Sand Live Oak	<i>Quercus Geminata</i>	50-80	25-50	8A-10A	Semi-Evergreen
_*****	Black Olive	<i>Bucida Buceras</i>	35-40	25-40	10B-11	Evergreen
_*****	Hong Kong Orchid	<i>Bauhinia x Blakeana</i>	15-30	25-50	9B-11	Evergreen
+	Common Persimmon	<i>Diospyros Virginiana</i>	20-35	40-60	4B-9B	Deciduous
+	Loblolly Pine	<i>Pinus Taeda</i>	25-35	50-75	6B-9A	Evergreen
+	Long Leaf Pine	<i>Pinus Pilustras</i>	35-50	60-90	7A-10A	Evergreen
-	Norfolk Island Pine	<i>Araucaria Heterophylla</i>	35-50	100-200	10A-11	Evergreen
+	Slash Pine	<i>Pinus Ellioti</i>	35-50	75-100	7A-11	Evergreen
_*****	Golden Poinciana	<i>Peltophorum Pterocarpum</i>	25-35	25-50	10A-11	Semi-Evergreen
_*****	Royal Poinciana	<i>Delonix Regia</i>	50-70	25-50	10A-11	Semi-Evergreen
_*****	Floss Silk	<i>Chorisia Speciosa</i>	25-35	25-50	9B-11	Deciduous
+	Sugarberry	<i>Celtis Laevigata</i>	50-60	50-70	5A-10B	Deciduous
+	Sweetgum	<i>Liquidambar Styraciflua</i>	35-50	50-70	5B-9B	Deciduous

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+*****	Black tupelo	<i>Nyssa Sylvatica</i>	25-35	65-75	4B-9B	Deciduous
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*****Denotes Trees Susceptible to Frost

Medium Shade Trees: Canopy Potential at Maturity: 500 square feet						
N. America Native (+) Non Native (-))	Common Name	Latin Name	Spread	Hardiness/ Height	Range	Persistence
+	Carolina Ash	<i>Fraxinus Carolinian a</i>	25-35	25-50	7B-10A	Deciduous
+	Loblolly Bay	<i>Franklinia Lasianthus</i>	15-25	25-50	7A-9B	Evergreen
-	Sweet Bay Magnolia	<i>Magnoli Virginiana</i>	15-30	15-40	5A-10A	Evergreen
+*****	Geiger Tree	<i>Cordia Sebestena</i>	15-25	15-25	10B-11	Evergreen
_*****	Golden Rain Tree	<i>Koelreuteria Eleganus</i>	20-30	20-40	5A-9B	Deciduous
+	American Holly	<i>Llex Opaca</i>	15-30	35-50	5B-9B	Evergreen
+	Dahoon Holly	<i>lilex Cassine</i>	15-25	25-40	7A-11	Evergreen
+	East Palatka Holly	<i>llex Opaca E.P. Holly</i>	15-25	25-50	7A-9B	Evergreen
+	Cherry Laurel	<i>Prunus Caroliniana</i>	15-25	25-40	8A-10A	Evergreen
+*****	Black Mesquite	<i>Prosopis Velutina</i>	20-25	15-25	8B-11	Semi-Evergreen

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+	Sand Pine	<i>Pinus Clausa</i>	15-25	25-50	7A-10A	Evergreen
-	Podocarpus	<i>Podocarpus Falcatus</i>	25-35	30-40	10A-11	Evergreen
+*****	Pond Apple	<i>Annona Glabra</i>	15-25	15-25	10A-11	Evergreen
+	Chapman Oak	<i>Quercus Chapmanii</i>	25-35	20-40	8B-10B	Semi-Evergreen
-*****	Pink Trumpet	<i>Tabebuia Heterphylla</i>	15-25	15-35	10A-11	Semi-Evergreen

*****Denotes Trees Susceptible to Frost

Small Shade Trees: Canopy Potential at Maturity: 250 square feet						
N. America Native (+) Non Native (-)	Common Name	Latin Name	Spread	Hardiness/ Height	Range	Persistence
-	Arborvitae	<i>Platycladus Orientalis</i>	15-20	15-20	6A-10A	Evergreen
+	Bottle Brush	<i>Callistemon Viminalis</i>	15-25	15-25	9B-11	Evergreen
+*****	Green Buttonwood	<i>Conocarpus Erectus</i>	25-35	25-35	10B-11	Evergreen
+*****	Silver Buttonwood	" " var. <i>Sericeus</i>	25-35	25-35	10B-11	Evergreen
-*****	Cassia	<i>Senna Spectabilis</i>	15-20	15-20	10B-11	Evergreen
+	Crape Myrtle	<i>Lagerstremia Indica</i>	five-25	ten-30	6B-10A	Deciduous
+	Yaupon Holly	<i>Ilex Vomitoria</i>	ten-15	15-20	7A-10A	Evergreen
-	Loquat	<i>Eriobotrya Japonica</i>	25-35	15-25	8A-11	Evergreen
-*****	Mahoe	<i>Hibiscus Elatus</i>	15-25	20-30	10A-11	Evergreen

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+*****	Marlberry	<i>Ardisia Escallonioides</i>	five-15	15-20	7A-11	Evergreen
+*****	Pigeon Plum	<i>Coccoloba Diversifolia</i>	15-25	15-25	10B-11	Evergreen
+*****	Sea Grape	<i>Coccoloba Uvifera</i>	20-30	20-35	10A-11	Evergreen
+	Simpson Stopper	<i>Myrcianthes Fragrans</i>	15-25	15-25	9B-11	Evergreen
+	Wax Myrtle	<i>Myrica Cerifera</i>	15-20	15-30	7A-10B	Evergreen
+*****	All Palms Are Equal to 250 square feet of canopy coverage points.					

*****Denotes Trees Susceptible to Frost

Sec. 45-20. Street tree requirements.

- A. All street development, including all City of North Port street projects, will be required to landscape the streets by using trees from the North Port Priority Tree List in Sec. 45-19 above. For all new developments being processed as a major site and development plan, subdivision plan, or development master plan, the property owner shall install street trees along all adjacent streets and streets that are internal to the development tract.
 - (1) Major shade trees shall be placed along major roadways within a subdivision and along all collector and arterial roadways. Minor roadways shall have trees from any of the tree list categories.
 - (2) Trees intended to be used for the understory, small trees, and hedge forming trees, shall be used sparingly for the concealing of structures, including but not limited to, electrical boxes, backflow preventers, and the like. Large and medium shade trees will be used for canopy coverage purposes.
- B. Street trees to be installed will not count for the thirty-five percent (35%) minimum canopy requirement or buffer requirements.
- C. All street trees shall be chosen from the City's Major Shade Tree List and conform to the following planting guidelines for landscape design:
 - (1) Plantings shall be low to moderate water and maintenance needs and be adapted to local urban environmental conditions.
 - (2) Native species are preferred but are not required as long as the non-native species are proven adapted to the natural ecosystems of the City of North Port.
 - (3) Street trees shall be spaced to allow for maximum canopy potential and shall be planted on center.

Type of Tree	Distance Apart
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Small Shade Tree	20—25 feet apart from each other
Medium Shade Tree	25—30 feet apart from each other
Intermediate Shade Tree	30—35 feet apart from each other
Major Shade Tree	35—40 feet apart from each other

- (4) If the required infrastructure interferes with the distance spacing requirement of street trees, the minimum distance to ensure survival of the street tree shall be used.
- (5) Root barriers.
 - a. All street trees shall have a root barrier installed, if any of the following applies:
 - i. Any small or medium shade trees planted five (5) feet or closer (measured from center of the tree) to any street, sidewalk, driveway, underground utilities or structure.
 - ii. Any major medium and major shade trees planted within the ten (10) feet of the designated planting location and is adjacent to any street, sidewalk, driveway, underground utilities or structure.
 - b. All root barrier(s) installation shall be linear. The applicant shall provide installation details and specifications with landscape plans.
 - c. Where root barriers are required for street trees and the root barrier installation is not feasible, one (1) of the following methods shall be utilized in lieu of the root barrier installation:
 - i. Soil cell system to incorporate trees in areas where sidewalks are present to support large tree growth and provide on-site stormwater management.



- ii. Mechanical compaction of the soil before paving and the use of thicker concrete with wire mesh reinforcement to prolong the life of the sidewalk whether tree roots are present or not.

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- iii. Meander the sidewalk away from the tree, to the greatest extent possible, to allow for the main structural root system to grow and prevent the upheaving of the sidewalk in the future.



D. Protection of trees in the public right-of-way and other public places.

- (1) It shall constitute a violation of this chapter for any person to abuse, destroy, top, or mutilate any tree or shrub in the right of way, or to attach or place any rope, wire, sign, or poster to or on any tree in the public right of way, or to allow any gaseous, liquid, or solid substance which may be harmful to trees to come in contact with any portion of the tree or tree's root system.
- (2) No person shall deposit, place, store, park, or maintain upon any tree or root area of any street tree, or other plantings, in a public right of way or other public places, any vehicle, stone, brick, concrete, soil, or other materials that may impede the free passage of water, air, and fertilizer to the roots of any street tree growing therein.
- (3) All street trees in public rights of way or other public places, near any excavation or construction of any building, structure, utility line, or street work, shall be guarded during the construction period with a substantial fence or wooden barricade; however, no barricade shall be placed within one-half ($\frac{1}{2}$) the area of the drip line.

[Amended 9-23-2013 by Ord. No. 2013-19]

ARTICLE I. - CANOPY ROADWAYS

ARTICLE II. - ADMINISTRATION

ARTICLE I. CANOPY ROADWAYS

[Added 1-30-2012 by Ord. No. 2011-32]

[Sec. 45-21. Purpose.](#)

[Sec. 45-22. Canopy road designation.](#)

[Sec. 45-23. Authorization for removal or disturbance of protected trees in designated canopy road zones.](#)

[Sec. 45-24. Protection of canopy road trees.](#)

[Sec. 45-25. Prohibitions.](#)

[Sec. 45-26. Exemptions.](#)

[Sec. 45-27. Territorial applicability.](#)

[Sec. 45-28. Emergency tree removal.](#)

[Sec. 45-29. Fees and remedies.](#)

Sec. 45-21. Purpose.

It is the purpose of this article:

- A. To designate, preserve, promote, and protect canopy roads in the City of North Port.
- B. To provide regulations that will protect canopy roads in the City of North Port and encourage property owners to protect trees along canopy roads.
- C. To increase economic value of properties and neighborhoods, encouraging quality development.
- D. To protect the environment of the City.
- E. To aid in the reduction of air pollution by protecting the capacity of trees to produce oxygen and sequester carbon dioxide.
- F. To help reduce potential damage from wind.
- G. To provide shade and act as a noise barrier.
- H. To assist in the absorption of rainwater into the ground, thereby protecting against potential damages from soil erosion and flooding, as well as reducing the cost of handling stormwater by artificial means.
- I. To conserve, protect and enhance the aesthetic and scenic beauty of the City.

Sec. 45-22. Canopy road designation.

- A. The City Commission is authorized to designate roads as canopy roads and set standards for the implementation of this article. Such standards shall be set by resolution. Requests for additional canopy road designations may be made by residents, City staff, and the North Port Beautification and Tree/Scenic Highway Committee. Requests will be coordinated and brought through the North Port Beautification and Tree/Scenic Highway Committee to the City Commission for approval.
- B. Canopy roads shall have characteristics as set forth below.
 - (1) A canopy road shall have a minimum length of four hundred (400) feet and a minimum of fifty percent (50%) overhead coverage (excluding invasive species), per section of travelway as measured by branching, drip line, shadows, and other visual cues; or
 - (2) Where a road to be designated does not currently meet the requirements for overhead coverage, the requirements in subsection 45-22(B)(1) can be met by future coverage estimates that meet the requirements as determined by canopy coverage calculations and/or through additional plantings of protected trees; and
 - (3) A canopy road shall consist of a minimum of seventy-five percent (75%) native and/or naturalized species; and

- (4) A canopy road may be composed of more than one (1) segment of differently named roads providing they are contiguous and the combined length meets the minimum requirement.
- (5) The City Commission may waive these requirements if it determines such waiver to be in the best interests of the health, safety and welfare of the City.
- C. Canopy roads shall have appropriate signage:
 - (1) For identification of the canopy road.
 - (2) For protection of tree height.
- D. Canopy road tree location inventory. Each designated canopy road shall have a tree location inventory performed to identify protected trees.

Sec. 45-23. Authorization for removal or disturbance of protected trees in designated canopy road zones.

- A. It is the intent of this provision that no permit shall be granted for the removal of any protected trees where the applicant has failed to design the proposed improvements to minimize the impacts on the Canopy Road Zone (CRZ). It shall constitute a violation of this article for any person to remove or disturb any protected tree within a Canopy Road Zone unless it has been determined that such protected tree:
 - (1) Poses a safety hazard to people, buildings, structures, or vehicles; or
 - (2) Is diseased or so weakened by age, storm or other injury so as to pose a danger to persons, property, utilities, or improvements; or
 - (3) Unreasonably prevents development of a lot, parcel, or other lands or the physical use thereof.
- B. Permit application for protected tree removal or disturbance. An application meeting the requirements of this article shall be submitted for review to the department responsible for land development services pursuant to Sec. 45-7 unless otherwise exempt as provided in this article. The exemptions in Sec. 45-6 do not apply to this article.
- C. Permitting procedure for the removal of trees in a CRZ. A land clearing permit is required before any tree removal of any kind is conducted within the CRZ. An application meeting the requirements of this article shall be submitted to the administrator for review and recommendation, prior to or concurrent with subdivision plans or a site and development plan or an application for a building permit, whichever is first required.
 - (1) Where development requires approval under the ULDC, the tree removal permit shall not be issued until after the subdivision plan or site and development plan is approved. The written application shall constitute a written authorization for City staff to enter the property to conduct inspections to determine if the applicant is in compliance with the provisions of this article.
 - (2) A tree location survey for the lot shall be submitted with the application. The tree location survey shall show the information required in Sec. 45-22(A) and (B) at a scale sufficient to enable the determination of matters required under this article.
- D. Requirements for Canopy Road Zone land clearing permits.
 - (1) Applicant shall submit a plan showing proposed scope of work to include protected trees (by species and DBH), the scaled location of the Canopy Road Zone, and the proposed location of the tree protection barricades.
 - (2) If encroachments into the CRZ are proposed, a plan will be required to be prepared by an ISA certified arborist, an American Society of Consulting Arborists (ASCA) member arborist, landscape architect, or other specialist in the field of arboriculture specifying the methods to be utilized to preserve the vegetation. This plan shall address protection of the root system, crown, and stems of the trees, a means of supplying water and essential elements to the root system,

and the proposed location of the tree protection barricades. This plan shall be subject to approval by the City.

- (3) Pre-application inspection service. City staff shall be available for pre-application conferences or inspections of the site involved.
 - (4) Upon receipt of the complete application, the administrator will conduct a field inspection to determine if the information is sufficient for review, and if the proposed plan is in compliance with the provisions of this article. Upon completion of the review, the administrator will notify the applicant that the application is either insufficient, does not comply with the provisions of these regulations, or that the permit is approved, or approved with stipulations.
 - (5) If a protected tree dies after a land clearing permit has been issued and prior to the issuance of a Certificate of Occupancy or Certificate of Completion, the applicant shall notify the City and request an inspection, prior to the removal of the dead tree. An inspection shall be made within two (2) days of the notification by the applicant. Failure to notify the administrator prior to the removal of any CRZ protected tree constitutes a violation of this article.
 - (6) All permits will require a final inspection to ensure compliance with the provisions of this article. Final inspections shall be scheduled by the applicant after completing the project.
- E. Trimming within the CRZ shall be limited to fourteen (14) feet clearance over the travelway for vehicles and eight (8) feet over walkways for pedestrian clearance.
- F. Border trees shall be included in the Canopy Road Zone.

Sec. 45-24. Protection of canopy road trees.

- A. Utility pruning should only provide minimum safe clearance to protect utility lines with consideration for the combined movement of the conductors near trees in severe weather, the species of the tree, and the voltage of the conductor where applicable.
- B. Location of protected trees. All protected trees which will be disturbed by proposed activities shall be physically located on-site and shown on the site plan submitted as part of the tree removal request in the land clearing permit application.
- C. Drip line preservation. During development, construction activity, and utility construction, all areas surrounding the trunk of a protected tree within a the drip line shall be protected from activities that may disturb or injure the tree, (such as cut and fill activities, building pad placements, road bed construction, construction material storage, driving or parking of equipment, or trenching, etc.), except where specific arboricultural analysis is provided by the applicant to demonstrate that there is no likelihood of adverse impact to the tree.
- D. Proper tree care: Canopy and root pruning.
 - (1) When activities affect the protected tree within the drip line, or when pruning must be performed on the crown of a protected tree, the following arboricultural techniques are required.
 - (a) When more than twenty-five percent (25%) of the area within the drip line will be disturbed, the affected roots must be severed by clean pruning cuts where the activity impacts the roots. Roots may be pruned by utilizing trenching equipment that is specifically designed for this purpose or by hand digging a trench and pruning roots with a chain saw, pruning saw or other equipment designed for tree pruning. Roots within the drip line must be pruned to a depth of twelve (12) inches below existing grade or to the depth of the disturbance if less than twelve (12) inches from the existing grade. When underground utilities are to be installed through the drip line, root pruning requirements may be waived if the lines are installed via tunneling or directional boring as opposed to trenching.
 - (b) All pruning of protected trees shall conform to the current ISA standards. There shall be no flush cuts, stub cuts, or lions tailing of the tree's crown.

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- (c) It shall be a violation of this article to perform the techniques of topping or other pruning techniques that remove the vertical leader stems or other pruning which results in an unnecessary reduction of shade of protected trees in the permit area. Topping shall be considered as cutting a major branch or stem to a stub or lateral branch not sufficiently large enough to assume the terminal role.
- E. Tree protection barrier requirements and CPZ protection. During development activities or any other potential disturbance that will impact the area within the drip line of any protected tree, protective barriers shall be placed around each protected tree to prevent the destruction or damaging of roots, stems, or crowns of such trees. Barriers shall remain in place and intact until the work is completed, however barriers may be removed temporarily to accommodate construction needs, as long as work is overseen by a certified arborist, provided that the manner and purpose for such temporary removal will not harm the tree and is approved by the City Manager or designee. The following are the minimum requirements for protective barriers and CPZ protection.
 - (1) Protective posts shall be placed so as to protect all areas within the drip line for each protected tree, except in right-of-way or utility placement areas where posts shall be placed so as to protect, the area within the drip line where approved by the City Manager or designee.
 - (2) Posts shall be a minimum of two (2) inches by four (4) inches or larger wooden post, two (2) inches outer diameter or larger or other post material of equivalent size; shall be connected with a minimum of at least a one (1) inch by four (4) inch wooden board; and shall be clearly flagged. The maximum distance allowed between upright posts is eight (8) feet. Other similar methods, such as, construction fencing, may be permitted if approved in writing by the Administrator in advance of installation.
 - (3) Posts shall be implanted deep enough into the ground to be stable and extend a minimum height of four (4) feet above the ground.
 - (4) Where development activity is permitted within the drip line of a protected tree (as measured by the longest radius from trunk to drip line), the City may require additional tree protection provisions to be incorporated in the activity permit.
 - (5) No storage or movement of equipment, store material, debris, or fill soil is allowed within the drip line of any protected tree, (as measured by the longest radius from trunk to drip line).
 - (6) No equipment shall be cleaned, or waste materials such as paints, oils, solvents, asphalt, concrete, mortar, or any other material shall be stored within the drip line on any protected tree, as measured by the longest radius from trunk to drip line.
 - (7) No damaging wires, signs or permits shall be fastened to any protected tree.
 - (8) Silt barriers, hay bales, or similar effective erosion silt control barriers shall be required in any area where erosion or siltation may cause damage to protected trees.
 - (9) Where elevation changes are proposed within fifty percent (50%) of the area within the drip line of any protected tree (as measured by the longest radius from trunk to drip line), the applicant shall be required to install retaining walls or drain tiles. The applicant shall have the choice of the type or design. These root protection measures shall be in place prior to the deposition of fill, or excavation of soil from the drip line.
- F. The City shall conduct periodic inspections of the site during the permitted activity in order to ensure compliance with this article.

Sec. 45-25. Prohibitions.

It shall constitute a violation of this article of the ULDC for any person to remove, relocate, cut down, poison, or in any other manner destroy, or cause to be destroyed, a protected tree located within a Canopy Road Zone. Removing a tree shall include topping, damaging, or any other action that causes irreparable

injury, or causing a tree or trees to be removed, or to prune a tree in Canopy Road Zones, except in accordance with a land clearing permit issued by the City pursuant to this article.

Sec. 45-26. Exemptions.

A. This article shall not apply to:

- (1) Tree located on a road or road segment not designated as a canopy road by the City.
- (2) Governmental personnel or agencies in the performance of their official duties during an emergency declared by the City Commission as provided herein.
- (3) Tree removal necessary for the construction of public roads, utilities, landfills, stormwater facilities, or other government uses only where no reasonable alternative exists to preserve the protected tree.
- (4) The demolition of structures where the demolition does not require the destruction or have an impact within the drip line of any protected tree.
- (5) Pruning required to restore electric service during severe weather events or other electrical emergency situations.
- (6) Persons engaged in routine arboricultural maintenance or clear zone pruning for vehicles, pedestrians, signs, or other roadside appurtenances provided that such maintenance and pruning conforms to current ISA standards.

B. The exemptions in Sec. 45-6 do not apply to Article I.

Sec. 45-27. Territorial applicability.

This article shall be effective throughout the corporate boundaries of the City of North Port, Florida.

Sec. 45-28. Emergency tree removal.

When it is necessary to expedite the removal of damaged or destroyed protected trees in the interest of the public safety, health, and general welfare following high winds, storms, hurricanes, tornadoes, floods, or other man-made or natural disasters, the City Commission may, by resolution, suspend the requirements of this article.

Sec. 45-29. Fees and remedies.

- A. Any person applying for a permit to remove or disturb protected canopy road trees, shall file a written application and pay such a fee as established by the City Commission pursuant to the City Wide Fee Schedule, as may be amended.
- B. The City of North Port may have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this article. The City may use one (1) or more of these remedies.
- (1) A violation of any provision of this article may be enforced as provided in North Port City Code, Chapter 2, Article IX, Code Enforcement.
 - (2) The City may require a violator to mitigate any protected tree removed or irreparably injured without authorization by paying a mitigation fee equal to two hundred dollars (\$200.00) per diameter inch (DBH). Such fee shall be used only for the purposes of acquiring, planting, and protecting trees within the City.

- (3) The City may also enforce this article by seeking an injunction and/or damages together with all enforcement costs and expenses, including attorneys' fees.

ARTICLE II. ADMINISTRATION

[Added 1-30-2012 by Ord. No. 2011-32]

[Sec. 45-30. Interpretation. \[Amended 1-30-2012 by Ord. No. 2011-32\]](#)

[Sec. 45-31. Conflict. \[Amended 1-30-2012 by Ord. No. 2011-32\]](#)

[Sec. 45-32. Appeals. \[Amended 1-30-2012 by Ord. No. 2011-32\]](#)

[Sec. 45-33. Severability. \[Amended 1-30-2012 by Ord. No. 2011-32\]](#)

Sec. 45-30. Interpretation. [Amended 1-30-2012 by Ord. No. 2011-32]

The provisions of this chapter shall be interpreted by the City Manager or designee. It shall be liberally construed in order to effectively carry out its purpose. Where any provision of this chapter refers to or incorporates another provision, ordinance, statute, rule, regulation, policy, official publication, or other authority, it refers to the most current version, incorporating any amendments thereto or re-designation thereof.

Sec. 45-31. Conflict. [Amended 1-30-2012 by Ord. No. 2011-32]

Whenever the requirements of these regulations of this chapter differ from those imposed by City, Federal or State regulation, law or statute, the most restrictive or imposing the higher standards shall apply. [Amended 1-30-2012 by Ord. No. 2011-32]

Sec. 45-32. Appeals. [Amended 1-30-2012 by Ord. No. 2011-32]

- A. Any person aggrieved by the City Manager or designee's interpretation may appeal to the Zoning Board of Appeals. The criteria for granting an appeal shall be based upon substantial competent evidence proving that the interpretation is inconsistent with provisions of this chapter. The granting of any appeal shall not be in conflict with State Statutes. The Zoning Board of Appeals' decision may be appealed to the Circuit Court of Sarasota County within thirty (30) days of such decision.
- (1) Applications for an appeal shall be filed pursuant to Sec. 1-10. [Amended 1-30-2012 by Ord. No. 2011-32]
 - (2) Any action under appeal shall not stay any enforcement proceedings. [Added 1-30-2012 by Ord. No. 2011-32]

Sec. 45-33. Severability. [Amended 1-30-2012 by Ord. No. 2011-32]

If any provision of this chapter is for any reason finally held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions.