



City of North Port

ORDINANCE NO 04 64

(Amendments to the North Port Unified Land Development Code
Ordinance 99 14 as amended)

AN ORDINANCE OF THE CITY OF NORTH PORT FLORIDA, AMENDING ORDINANCE 99 21 AS AMENDED DELETING AND ADDING VARIOUS SECTIONS IN CHAPTER 45 RELATING TO TREE PROTECTION PROVIDING FOR FINDINGS PROVIDING FOR ADOPTION PROVIDING FOR SEVERABILITY PROVIDING FOR CONFLICTS PROVIDING FOR APPEALS AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT FLORIDA

SECTION 1 – FINDINGS

- 1 01 Regulating trees on property improves the area aesthetics and protects the value of property while improving the air quality
- 1 02 The City of North Port adopts these regulations to protect and promote a pleasing environment which benefits the general welfare

SECTION 2 – ADOPTION

- 2 01 The City of North Port City Commission hereby approves and adopts the complete text of this ordinance amending Chapter 45 of the Unified Land Development Code pursuant to Exhibit A attached hereto

SECTION 3 – SEVERABILITY

- 3 01 If any provision of this Ordinance 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

SECTION 4 – CONFLICTS

- 4 01 In the event of any conflict between the provisions of this Ordinance and any other City Ordinance or portions thereof the provisions of this Ordinance shall prevail to the extent of such conflict

SECTION 5 – EFFECTIVE DATE

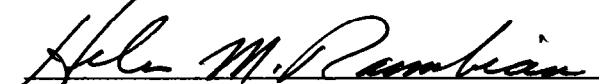
- 5 01 This Ordinance and the provisions thereof shall take effect immediately upon adoption by the City Commission

Read by title only in public session on this 28th day of January, 2005

Passed and adopted on the second and final reading in public session this 14th day of February, 2005


RICHARD A LOCKHART COMMISSION
CHAIR

ATTEST


Helen Rambeau
City Clerk

Approved as to form and correctness



ROBERT K ROBINSON
City Attorney

EXHIBIT A

SECTION 1 DELETION AND ADDITION OF REGULATIONS FOR TREE PROTECTION IN
THE NORTH PORT UNIFIED LAND DEVELOPMENT CODE

1 01 Chapter 45 of the City of North Port Unified Land Development Code is hereby deleted as follows (~~strickethrough~~ words are deleted and underlined words are additions)

§ 45 6 Permit criteria, procedures and fees

A Unless exempt under § 45 5 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 (permit) issued by the Director Violation of this section shall constitute a fine as set forth in Section 45 6L

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 amended Accordingly tree removal and protection permits shall only be issued when

(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 a safety hazard to buildings structures or other improvements

(3) The trees completely prevent vehicular access to a lot

(4) Project phasing is clearly identified on the site plan Tree removal permits shall be issued by phase only

(5) 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

(6) A statement by a qualified arborist or other professional as approved by the Director 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 if so determined by the Director 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 or

(7) Meets the tree removal criteria in Section 45 7

H Should an additional tree or trees need to be removed after a permit has been issued the applicant must obtain an amended permit prior to the removal pursuant to Subsection G above This amended permit shall be reviewed within five working days Failure to amend the permit prior to removal of the tree shall constitute a violation of this chapter and shall be assessed \$250 per tree removed

I If a tree dies after a tree removal permit has been issued but before the issuance of a certificate of occupancy the applicant shall notify the Director and request an inspection prior to the removal of the dead tree(s) An inspection will be made within one working day of notification by the applicant

Failure to notify the Director prior to the removal of any dead tree constitutes a violation of this chapter and shall be assessed \$250 per tree removed

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. 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 fee~~ \$500 dollar fine and/or mitigate the impact of said action in accordance with the provisions of § 45 10C and D of this chapter, whichever is greater. 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

§ 45 10 Tree replacement relocation and mitigation

B Mitigation fees or charges for removed trees that are not relocated shall be assessed at the current market cost for a potted live oak meeting the minimum standards of this chapter In addition, a \$100 fee for labor and handling shall be assessed per tree

§ 45 13 Enforcement penalties for offenses appeals

B Penalties for offenses

(1) Each unauthorized removal of a single tree protected by this chapter shall be a separate violation or offense

(2) Each violation of this chapter (meaning each tree is a violation) or any permit issued there under shall be punishable by monetary fine of \$50 per one inch DBH and plant four replacement trees or pay to the Tree Replacement Fund the penalty and amount equal to four replacement trees plus actual staff costs including but not limited to time resources material or expenses of investigation and administration caused by the violation In a case where clearing has occurred and number of trees removed is unable to be determined by the Director, a \$2,500 fine shall be assessed per each 10,000 square feet of lot/parcel area or fraction thereof

(3) ~~If the applicant can clearly demonstrate that any tree removed without a permit would have met the criteria for removal listed in § 45-10 at the time the trees were removed the violation will be removed~~

(4-3) Fines and tree replacement shall be determined and assessed by the Director who shall give written notice therefore to the violator by certified mail

(5 4) Failure to pay assessed fines and/or tree replacements within 30 days of receiving notice therefore shall be a separate violation of this chapter

45 – 18 Tree Planting Incentive

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