

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 This ordinance also repealed former Ch. 45, Tree Protection Regulations, adopted 9-17-1990 by Ord.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.

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 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 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.

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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 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:
 - (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.
 - (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.
 - (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.

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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)
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
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 with 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.
 - (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:
- (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]

- (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
-	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
-	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-	Deciduous

					10B	
+	Sweetgum	<i>Liquidambar Styraciflua</i>	35-50	50-70	5B-9B	Deciduous
+*****	Black tupelo	<i>Nyssa Sylvatica</i>	25-35	65-75	4B-9B	Deciduous

*****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>Ilex Opaca</i>	15-30	35-50	5B-9B	Evergreen
+	Dahoon Holly	<i>Ilex Cassine</i>	15-25	25-40	7A-11	Evergreen
+	East Palatka Holly	<i>Ilex 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

+	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

+*****	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.

- 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

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

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.
 - (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]

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.