

ORDINANCE NO. 2024 - DL

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING APPENDIX C, LAND DEVELOPMENT CODE, OF THE FLAGLER COUNTY CODE OF ORDINANCES; AMENDING LAND DEVELOPMENT CODE SECTION 4.05.01, SKETCH PLAT REVIEW; AMENDING LAND DEVELOPMENT CODE SECTION 5.01.04, LANDSCAPE DEVELOPMENT STANDARDS; AMENDING LAND DEVELOPMENT CODE SECTION 5.01.09, FLAGLER COUNTY SHADE TREES; AMENDING LAND DEVELOPMENT CODE SECTIONS 6.01.00 THROUGH 6.01.05 RELATED TO INDEX TREE REMOVAL AND PROTECTION; CREATING LAND DEVELOPMENT CODE SECTION 6.01.09, TREE BANK FUND ESTABLISHED; CREATING LAND DEVELOPMENT CODE SECTION 6.01.10, VARIANCES; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 125, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, with the exception of Section 163.045, Florida Statutes, the State of Florida has left the regulation of trees within a community to the respective counties and municipalities; and

WHEREAS, the scope of the preemption included in Section 163.045, Florida Statutes, is limited to the pruning, trimming, and removal of dangerous trees on residential properties; and

WHEREAS, the amendment of the Flagler County Land Development Code provided herein is consistent with Section 163.045, Florida Statutes; and

WHEREAS, the Planning and Development Board recommended approval of this ordinance at its July 9, 2024 regular meeting; and

WHEREAS, the Board of County Commissioners approved this ordinance on first reading at its July 15, 2024 regular meeting; and

WHEREAS, the Board of County Commissioners adopted this ordinance on second and final reading at its August 5, 2024 regular meeting; and

WHEREAS, public notice has been provided in accordance with Section 125.66, Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS:

Section 1. RECITALS.

A. The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

Section 2. CODE AMENDMENT.

The Flagler County Land Development Code (Appendix C to the Code of Ordinances) is hereby amended as follows (deleted text in strikethrough format, added text in double-underline format, text within brackets is for reference only and is not to be codified):

A. Section 4.05.01, *Sketch plat review*, in Article IV, *Subdivision Regulations*, of Appendix C, *Land Development Code*, is amended to read as:

4.05.01. - Sketch plat review.

The intent of this review is to give the developer an optional procedure to introduce a proposed subdivision to the technical review committee (TRC) for the purpose of familiarizing the developer with a broad range of TRC considerations prior to the preparation of detailed plan documents. These considerations include, but are not limited to, such items as the comprehensive plan, county development policies and regulations, other development in the vicinity of the proposed subdivision, soil types, area drainage patterns, floodplain and flood-prone areas, and the capability of the land to support the proposed development. One purpose of this procedure is to provide the applicant with staff comments concerning flood-prone areas in the proposed subdivision and to provide staff recommendations concerning those flood-prone areas and the level of development considered to be acceptable by the TRC.

The developer may also request comments on the sketch plat by both the planning board and county commission. Sketch plat review can also be reviewed as a part of a rezoning and/or future land use map amendment.

A. *Procedures.*

1. An application for sketch plat review shall be filed and processed through development services. The proper fee and exhibits shall be submitted in sufficient copies, as determined by development services, to meet the requirements of the TRC.

2. A developer may elect to omit the sketch plat review and proceed directly to preliminary plat.
- B. *Required Submittals.* Sketch plat shall be drawn at a scale no smaller than one (1) inch equals two hundred (200) feet and shall illustrate clearly:
1. Vicinity map at a scale no smaller than one (1) inch equals two thousand (2,000) feet with sufficient information to locate the property in the field.
 2. Total area of proposed subdivision.
 3. Article VI, Resource Protection Standards, states "A developer should apply the provisions of this regulation (Article 6) to a proposed development site before any other development design work is done. Application of the provisions of this regulation will divide a proposed development site into areas that may be developed and areas that must generally be left free of development activity. The proposed development should then be designed to fit within the areas that may be developed." The following natural resources and site features shall be identified in the Sketch Plat plan and demonstrate avoidance and minimization of impacts:
 - a. FEMA flood zone designation(s), base flood elevations, and floodway limits.
 - b4. Water bodies or courses. Indicate mean or seasonal high water line.
 - c5. Wetland areas approximating jurisdictional boundaries.
 - d6. The soil types and boundaries, based on the Soil Survey of Flagler County, shall be delineated on the plan.
 - e7. A tree survey as defined in article VI, Resource Protection Standards and described in Section 6.01.02(1)A. Graphically depict on the plan predominant vegetative plant communities and identify types by common name and location.
 - f. Identify known historic and archaeological sites by reference to the Florida Master Site File as maintained by the State of Florida.
 48. Parcel number(s) according to the Flagler County Property Appraiser's Office.
 59. Topography of the site at not more than five-foot contour interval based on NGVD.
 610. Proposed layout of street system, lot patterns, conceptual drainage systems, approximate subdivision boundaries, and existing zoning on the subject property and adjacent/surrounding properties.
 711. Areas that may be reserved for parks or recreation sites, conservation easements, or natural open space areas.

- ~~8~~12. Streets adjacent to the tract, including rights-of-way and pavement widths, and driveways on both sides of adjacent streets within three hundred (300) feet of proposed development.
- ~~9~~13. Lots and blocks of adjacent recorded plats, giving plat book and page number along with names of such plats and identify owners of non-platted parcels.
- ~~10~~14. Proposed location of water and wastewater facilities.
- ~~11~~15. All existing on-site or adjacent easements, including drainage, electricity, gas, water, wastewater, pipeline, utility, conservation or other recorded easements.
- ~~12~~16. The legal description of the property proposed for platting.
- ~~17.~~ ~~Identify known historic and archaeological sites by reference to the Florida Master Site File as maintained by the State of Florida.~~
- ~~13~~18. Any other appropriate information thought necessary by the prospective applicant or development services director to make a schematic presentation.

- C. *TRC Review.* The TRC shall review the application and informally discuss with the applicant any steps necessary to bring the application into compliance with the requirements of applicable regulations. It is suggested the applicant request a pre-application meeting to discuss the proposed project.

The recommendations of the TRC shall be furnished to the applicant for use in proceeding to the next step in the platting process.

- B. Section 4.05.02, *Preliminary plat and construction plan review*, in Article IV, *Subdivision Regulations*, of Appendix C, *Land Development Code*, is amended to read as:

4.05.02. - Preliminary plat and construction plan review.

An application for preliminary plat and construction plan review, the proper fee, and sufficient copies of the exhibits, as determined by development services, shall be filed with development services. Exhibits shall include:

- A. *General Information.*
 - 1. All plans shall be submitted on twenty-four (24) inch × thirty-six (36) inch sheet sizes or as otherwise approved by development services.
 - a. Construction plans shall be submitted in a format and scale approved by development services.
 - b. A preliminary plat shall be submitted in the same format as required for final plats by Florida Statutes Ch. 177, and by the applicable provisions of this ordinance.

2. A survey of the subject property prepared by a professional surveyor containing the legal description of the subject property and the surveyor's certificate of accuracy.
3. Name of subdivision, name, address, telephone number of the subdivider, professional engineer and professional surveyor.
4. Date of survey, north point and graphic and numeric scale.
5. Total area in tract, area in public or other land usage, total number of lots, linear feet of streets.
6. Names and location of adjoining subdivisions and streets.
7. Other supplemental materials or any deed restrictions or protective covenants for the subdivision and any other information considered by either the applicant or the TRC to be pertinent.
8. A dedication of such streets, easements, common areas or public places is necessary for development. Such dedication shall be in the same manner as deeds conveying lands are required to be executed for recordation.
9. A tree survey as defined in article VI, Resource Protection Standards and described in 6.01.02(1)A.

B. *Existing Site Data.*

1. City limits (if any), property lines, rights-of-way, pavement width, easements, streets, driveways, railroads, known utilities, storm sewers, ditches and culverts, bridges, buildings, bulkhead and bulkhead lines.
2. Wooded, wetland, and FEMA Special Flood Area, including their identification, marshes, watercourses, ponds, and other similar conditions affecting the site.
3. Topography survey of the site at not more than a two-foot contour interval based on NGVD data furnished by a professional surveyor.
4. Soil borings within drainage retention area(s).

C. *Proposed Site Data and Construction Details.*

1. Street rights-of-way, pavement widths, gradient and elevations, street names, profiles and cross-sections of roadway and other appropriate cross-sections pursuant to requirements shown in the public works manual.
2. Other rights-of-way or easements, including locations, dimensions and purposes.
3. Plans for all underground utilities, including but not limited to sanitary sewers; storm sewers; potable water lines; reuse water lines; and other supporting utility corridors, or proposals for developing new water supply; storm drainage; and sewage disposal systems; storm and sanitary sewer profiles; and cross-sections; and inverts and top elevations of structures, pursuant to requirements in the public works manual.

4. Grade changes, dikes or any created water bodies or changed watercourses.
 5. Bulkheads and bridges; engineering plans, and cross-sections.
 6. Street center line dimensions, scalar block and lot layouts, lot and block numbers.
 7. Areas to be used for purposes other than residential and public; and their purposes, location and dimensions of each indicated parcel.
 8. Information on essential and available utility services, including water, sewer, electric or gas, including a letter of availability from the provider.
 9. Tree protection plan, which at a minimum identifies protected trees to remain and protected trees to be removed, including a site data table of the caliper inches to be removed and the caliper inches to be retained.
- D. *Developer's Option to Commence Construction.* The developer may elect to commence construction of the subdivision after the preliminary plat has been approved by the county commission and may at the same time apply for a final plat approval.
- E. *Development Permits Required Prior to Commencement of Construction.* If the developer elects to commence construction prior to, or concurrently with, final plat approval, he/she shall notify development services of that intention. Development services shall then issue a development permit authorizing the commencement of construction pursuant to the approved construction plans, provided all other permits from federal, state or regional agencies have been issued.
- C. Section 4.05.03, *Final plat review*, in Article IV, *Subdivision Regulations*, of Appendix C, *Land Development Code*, is amended to read as:

4.05.03. - Final plat review.

No improvements, including streets, shall be accepted by the county unless and until the final plat has been approved by the county commission, and has been duly recorded by the Clerk of the Circuit Court, Flagler County, Florida (clerk). The clerk shall record only those final plats which have been submitted for recording by development services.

A. *Procedures.*

1. An application for a final plat shall be filed with development services.
2. The developer shall submit an appropriate number of paper reproductions, as determined by development services.
3. The final plat shall be prepared by a professional land surveyor at a scale of one (1) inch equals one hundred (100) feet, or such other scale approved by the county. All final plats shall be prepared on standard sheet sizes as required by Florida Statutes Ch. 177, as

amended, and shall be twenty-four (24) inches by thirty-six (36) inches, including a three-inch binding margin on the left side and a one-inch margin on the other three (3) sides. To ensure legibility, all lettering upon the plat shall be a minimum height of ten (10) point font.

B. *Required Submittals.*

1. The following information shall be shown on the submittals:
 - a. Name of subdivision, date of survey, north point, graphic and numeric scale.
 - b. A vicinity map drawn at an appropriate scale showing the project site and its relationship to known landmarks.
 - c. Names and locations of all adjoining or interior subdivisions, city limits, bulkhead lines, property lines, rights-of-way and easements.
 - d. The legal description of the property being platted shall appear on the final plat and match the description furnished in the attorney's opinion of title or other similar documents.
 - e. Sufficient survey data to readily determine and reproduce on the ground every straight or curved boundary line, lot line, right-of-way line, easement line, bulkhead line and setback line, including, but not limited to linear dimensions, bearings or deflection angles, radii, arcs and central angles. All dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest second of arc.
 - f. All proposed rights-of-way, easements and areas to be dedicated to public use with the purpose of each stated.
 - g. Areas to be used for purposes other than lots or public dedications, if any, with the purpose, location and dimensions of each indicated.
 - h. Signed certificates shall appear on all final plats. Such certificates shall be in accordance with the format and specific language set forth in the Flagler County Standard Forms and Certification Manual. The following signed certificates shall be completed and provided with the submission: dedication, joinder and consent to dedication, all required acknowledgements, surveyor's certificate, certificate of approval by the reviewing professional land surveyor (PLS), certificate of approval by county commission, approval of the development services director, acceptance of dedication, and certificate by the county attorney and certificate by the clerk.
 - i. The final plat shall include such additional information as may be required by Florida Statutes Ch. 177, as amended.
 - j. Surveyor's notes.

2. The following information shall also be provided:
 - a. Name, address and telephone number of the subdivider, subdivision designer, professional engineer, registered surveyor, abutting property owners, and mortgagees of the property.
 - b. A title certification which meets the requirements of Florida Statutes Ch. 177, as amended, and list of encumbrances.
 - c. Any deed restrictions or protective covenants.
 - d. A copy of the final plat reduced to eleven (11) × seventeen (17) inches.
3. If the developer elects to construct the improvements after the recordation of the final plat, the following information shall be provided in addition to 4.05.03 B.1 and B.2 above:
 - a. A signed and sealed professional engineer's estimate of the total construction cost or a signed contract which encompasses all proposed improvements.
 - b. A performance guarantee in accordance with this article.
4. Upon completion of construction of the required improvements, the following information shall be provided in addition to 4.05.03 B.1 and B.2:
 - a. A signed and sealed professional engineer's certification of the constructed improvements and the total construction cost. If fire hydrants were installed, the professional engineer must certify that the water distribution system of the development meets the National Fire Protection Association capacity requirements for fire hydrants.
 - b. A two (2) year maintenance guarantee bond in the amount of ten (10) percent of the total construction cost in the form acceptable to the Flagler County Legal Department.
 - c. One (1) mylar and two (2) sealed paper reproductions of as-built (or record) survey signed by the professional surveyor which encompass all required improvements. If the paper reproductions of as-built (or record) survey were prepared on an Auto CAD system, the applicant shall provide such digital files to development services in a "dwg" format.
 - d. Adequate test reports signed and sealed by a professional engineer, as required by the county engineer.
 - e. A signed and sealed certification by the project civil engineer, certified arborist, or landscape architect certifying the as-built tree protection plan and tree replacements. Required tree replacement funds shall be paid in full prior to final plat acceptance.

C. *Recording Requirements*

1. No plat of lands in Flagler County subject to these regulations shall be recorded, whether as an independent instrument or by attachment to another instrument entitled to record, unless and until such plat has been approved by the county commission.
2. Recording period. All approved plats shall be recorded within fifteen (15) days following board approval, unless extended by the development services director for extraordinary conditions.
3. Plats shall be recorded in the following manner:
 - a. All documents and the original plat shall be submitted to development services. Development services shall then transmit the documents to the clerk for recordation. Also, if the plat was prepared on an Auto CAD system, the applicant shall provide such digital files to development services in a "dwg" format.
 - b. Development services shall obtain a statement that all current and previous taxes have been paid in accordance with F.S. § 197.192, as amended.

D. Section 5.01.04, *Landscape development standards*, in Article V, *Other Development Design and Improvement Standards*, of Appendix C, *Land Development Code*, is amended to read as:

5.01.04. – Landscape development standards.

To ensure the attainment of the objectives of this section, the design and installation of required landscaping shall be consistent with the following standards unless it can be demonstrated to the Flagler County Planning Board that alternative design and installation plans will meet the objectives of this section. The landscape development standards contained herein shall apply whenever a building permit or landscape plan ~~plant~~ are required.

- (1) *Landscape area requirements.* Multifamily residential, mobile home park, office, commercial or public land uses shall devote a minimum of fifteen (15) percent of the total developed area to pervious landscape areas. At least one-third (1/3) of the minimum required area must be contained within the interior area of the site.
- (2) *Industrial land uses.* Industrial land uses shall devote a minimum of ten (10) percent of the total developed area to landscape development.
- (3) *Single family dwellings.* Each single family lot or parcel must provide at least one (1) tree per each two thousand five hundred (2,500) three thousand (3,000) square feet of lot area for the first quarter acre of lot area. For lots exceeding one quarter (1/4) acre, one (1) tree for every additional one-quarter (1/4) acre, or major fraction thereof, excluding any portion within a water body. must be preserved or planted. Existing shade trees, sabal palms and pine trees may be used to satisfy this requirement, in whole or

in part, provided that they have a minimum caliper of two and one-half (2 1/2) inches DBH and overall height of ten (10) feet. When trees are planted to meet the minimum requirement they must be shade trees meeting the material standards of this section. The development of a single family dwelling on a lot or parcel zoned AC (Agriculture) or AC-2 (Agriculture/forestry) zoning district and conforming to the minimum dimensional requirements of the respective zoning district shall be exempt from the requirements of this section.

- (4) *John Anderson Highway/Old Kings Road.* All residential and commercial development lying south of State Road 100 and abutting John Anderson Highway or Old Kings Road shall provide a minimum twenty-five (25) foot landscape buffer easement adjacent and parallel to the road right-of-way. This requirement does not apply to intersecting roadways, canals or electric transmission easements. Within said buffer, a minimum of one (1) tree per forty (40) lineal feet must be preserved and/or planted. Shrubs and understory vegetation shall be planted between trees. This buffer may be included as part of a larger lot, tract or parcel. Except for fences and walls approved as part of a planned unit development (PUD), the minimum landscape buffer area must be kept free of structures such as fences, sheds, swimming pools, etc.
- (5) *Off-street parking and vehicle use areas.* Off-street parking facilities and other vehicular use areas, excepting permitted accessways, shall meet the following requirements:
 - (a) *Perimeter requirements.*
 1. *Front perimeter landscape areas.* An average ten-foot-wide strip of land, located between the front property line and abutting a building or vehicular use area shall be landscaped. Width of sidewalks shall not be included within the average ten-foot-wide front setback perimeter landscape area. The landscaped strip of land shall be increased to twenty-five (25) feet wide for properties abutting S.R. 100 or U.S. Highway 1.
 - 1a. *Front perimeter landscape areas in the A1A Scenic Corridor.* Developments shall provide a wide landscaped strip located between the property line and the developed area. The width of this landscape buffer shall be a minimum average of twenty-five (25) feet for properties with a lot depth of one hundred (100) feet or less, with no buffer width less than twenty (20) feet. For properties with a lot depth greater than one hundred (100) feet the perimeter shall be a minimum average of twenty-five (25) percent of the lot depth, up to a maximum of forty (40) feet, with no buffer width less than twenty-five (25) feet. Width of sidewalks shall not be included within the front perimeter landscape buffer. The intent of this

requirement is to create an undulating, diversified non-uniform perimeter buffer for the A1A Scenic Corridor that is in keeping with the existing natural and non-regimented character of the area. Developed areas such as septic systems, stormwater facilities, vehicular use areas including parking and access aisles (not including access driveways), solid waste facilities including dumpsters, storage buildings, and similar features or structures are not allowed in perimeter landscape buffers; provided however, that undulating dry retention basins may intrude up to ten (10) percent of the perimeter landscape buffer where necessary to save index trees elsewhere on the property.

2. *Side and rear perimeter landscape areas.* A five-foot-wide strip of land, located between the side and rear property lines and the vehicular use area, shall be landscaped, except that where the strip of land to be landscaped is between a side or rear property line and a vehicular use area used as an accessway, a four-foot-wide strip of land shall be landscaped. Common driveways serving adjacent property are exempt. The landscaped strip of land shall be increased to twenty-five (25) feet wide for multifamily projects.
 - 2a. *Side and rear perimeter landscape areas in the A1A Scenic Corridor.* A ten (10) foot wide landscape strip buffer of land, located shall be required along the side and rear property lines. The minimum width of this landscape buffer shall be fifteen (15) feet for the side and twenty (20) feet for the rear for a nonresidential use when adjacent to residential uses or zoning. No landscape buffer is required for a nonresidential use when it is adjacent to nonresidential uses or zoning, but tree planting shall still be required or in the case of like commercial uses, where no setbacks or landscape areas are required. Common driveways and sidewalks serving adjacent properties are exempt from perimeter requirements.
- (b) *Material requirements in perimeter area.*
1. *Tree count.* The total tree count requirements within the front setback perimeter landscape area shall be determined by using a ratio of one (1) tree for each twenty-five (25) linear feet of lot frontage or major portion thereof with no less than fifty (50) percent of said trees being native shade trees. The total tree count requirement within the side and rear perimeter landscape areas shall be determined by using a ratio of one tree for each fifty (50) linear feet with no less than fifty (50) percent of said trees being native shade trees. The total tree

count requirement within the side and rear perimeter landscape areas for multifamily projects shall be determined by using a ratio of one tree for each twenty-five (25) linear feet with no less than fifty (50) percent of said trees being native shade trees.

- 1a. *Tree count in the A1A Scenic Corridor.* The total canopy tree count requirements within the front, side, and rear perimeter landscape buffer shall be determined by using a ratio of one (1) planted tree for each twenty-five (25) linear feet of perimeter or one (1) preserved tree of at least fourteen (14) inches of caliper for every fifty (50) linear feet of perimeter. Perimeter calculations shall exclude up to no more than twenty-four (24) feet of access ways through the perimeter in the calculation. Preserved trees may be located up to fifteen (15) feet outside the required perimeter landscape strips, or when no strip is required, away from the property line. If trees are preserved or planted outside of landscape strips, landscape islands must be at least three hundred (300) square feet and must conform with critical root zone standards, with the tree placed approximately in the middle of the island. No fewer than seventy-five (75) percent of the required trees shall be native trees identified on the Interim Index Tree List. If salt air exposure is not a limiting factor as determined by the county administrator or his/her designee, no more than twenty-five (25) percent of the required trees may be palm trees, which must be at least twelve (12) feet high in height at the time of planting. For development sites greater than one (1) acre, no more than fifty (50) percent of the new trees planted shall be from the same genus (for example oak). [Editor's Note— The Interim Index Tree List for the A1A Scenic Corridor is not set out herein but is available for public inspection in county offices.]
- 1b. *Tree preservation required in the A1A Scenic Corridor.* Preservation of all existing native trees larger than six (6) inches in caliper is required within the perimeter area except for access ways.
- 1c. *Understory trees in the A1A Scenic Corridor.* Installation or preservation of eight (8) understory trees not less than six (6) feet in height, and one (1) inch caliper measured at six (6) inches above ground from the Interim Understory Tree List for each one hundred (100) lineal feet of front perimeter abutting the public vehicular right-of-way less the frontage for access ways.

- 1d. Trees shall be interspersed with understory shrubs using a ratio of one (1) shrub for each twelve and one-half (12½) linear feet of lot frontage or major fraction thereof. Shrubs shall be a minimum of forty-eight (48) inches in height and shall be from the Interim Shrub List or those marked "U" on the Interim Index Tree List for the A1A Scenic Corridor.
 2. *Ground cover.* Grass or other ground cover shall be placed on all areas within the front, side and rear setback perimeter landscape areas not occupied by other landscape material or permitted accessways.
- (c) *Visual screen in perimeter area.*
1. *Perimeter landscape areas.* A visual screen shall be placed within the perimeter landscape areas and shall run the entire length of such abutting property line, except at permitted accessways.
 2. *Light penetration and height.* A visual screen shall be installed to provide an opaque, continuous screen not lower than thirty (30) inches, except at permitted accessways. The minimum visual screen height shall be increased to forty-eight (48) inches for multifamily projects.
- (d) *Cross-visibility standards for setback areas.* A sight triangle shall be provided at those points where an accessway intersects a public right-of-way. The area within the sight triangle shall be provided at those points where an accessway intersects a public right-of-way. The area within the sight triangle shall be maintained in accordance with this section.
1. *Cross-visibility level.* An unobstructed cross-visibility between two (2) and ten (10) feet above the level of the center line of the public right-of-way shall be maintained within the sight triangle.
 2. *Trees.* Trees having limbs and foliage trimmed so that the cross-visibility is not obscured shall be allowed to overhang within the sight triangle, provided the location of the tree itself does not create a traffic hazard.
- (e) *Interior planting areas.*
1. *Size.* In vehicular use areas within the interior of a site, one (1) two-hundred-fifty-square-foot planting area shall be required for each five thousand (5,000) square feet or majority portion thereof of vehicular use area, and a native shade tree together with other landscape material shall be planted within such planting area. Interior planting areas shall be located to most effectively relieve the monotony of large expanses of paving and contribute to orderly circulation of vehicular and

pedestrian traffic, and shall be no less than six (6) feet in width.

- 1a. *Size of interior planting areas in the A1A Scenic Corridor.* In vehicular use areas within the interior of a site, one (1) planting area, containing at least one (1) index tree with a minimum caliper of four (4) inches at six (6) inches above ground, of at least four hundred (400) square feet in area and no less than fifteen (15) feet in width shall be required for each four thousand (4,000) square feet or major fraction thereof, of vehicular use area. If palm trees are used to meet this requirement, a three to one (3:1) ratio shall be used with a minimum height of twelve (12) feet for each palm. If salt air exposure is not a limiting factor as determined by the county administrator or his/her designee, no more than thirty (30) percent of the required trees in the landscaped islands may be palm trees. Interior landscaped areas shall be dispersed so as to define aisle ends and to limit unbroken rows of parking to a maximum of eighty (80) linear feet. For development sites greater than one (1) acre, no more than fifty (50) percent of the new trees planted shall be from the same genus (for example oak). Where it is suitable, trees may be planted and preserved in clusters rather than individually to increase shaded areas and to improve long-term survivability and longevity of trees. Planting trees in clusters or groups rather than individually allowing a minimum of four hundred (400) square feet per tree in each group or cluster shall be encouraged. Planted trees shall conform to the requirements below.
 2. *Overhang.* Vehicles shall not overhang more than two (2) feet into any interior planting area.
- (6) *Buffer standards relating to uncomplimentary land uses and zones.*
- (a) The following shall constitute uncomplimentary uses and zones:
 1. Office use or zones, when abutting to single-family housing use or lands zoned for single-family housing.
 2. Mobile home park use or zones, when abutting to single-family housing, two-family housing, multifamily housing and office uses, and lands zoned for single-family housing, multifamily housing and office uses.
 3. Commercial uses or zones, when abutting to single-family housing, two-family housing, multifamily housing or mobile home park or mobile home subdivision uses or lands zoned for single-family housing, multifamily housing or mobile home park or mobile home subdivision uses.

4. Industrial uses or zones, when abutting to any nonindustrial uses or zones.
 5. All residential uses or zones, when abutting any public park.
- (b) In uncomplimentary land uses or zones, a buffer strip shall be required. Said buffer strip shall be at least ten (10) feet in width the entire length of all such common boundaries.
- (b1) A buffer strip in the A1A Scenic Corridor shall be required between uncomplimentary land uses or zones. No new structures shall be placed within fifty (50) feet of an existing residential primary structure on an adjoining uncomplimentary land uses or zones. No new structures shall be placed within fifty (50) feet of an existing residential primary structure on an adjoining parcel. Twenty-five (25) feet of the buffer strip shall be used for a vegetative buffer as described in Section 5.01.04, Landscape development standards. Such twenty-five (25) foot buffer areas shall include a wall, fence, hedge, or natural vegetation area of at least six (6) feet in height that will screen single-family housing uses or lands zoned for single-family housing from more intensive uses. Any wall or fence installed or used for this purpose must be placed along the property line, but may be offset up to ten (10) feet from the property line or interrupted to avoid impacting trees.
- (c) Buffer material requirements shall be as follows:
1. *Tree count.* The total tree count required within the buffer strip shall be determined by using a ratio of one (1) tree for each twenty-five (25) linear feet of required buffer strip, or majority portion thereof, with a minimum of fifty (50) percent of said trees being native shade trees. Trees shall be spaced so as to allow mature growth of shade trees.
 2. *Ground cover.* Grass or other ground cover shall be planted on all areas of the buffer strip required by this section which are not occupied by other landscape material.
 3. *Visual screen.* A visual screen running the entire length of all common boundaries shall be installed within the buffer strip, except at permitted accessways. Such strips shall provide a minimum of sixty (60) percent opacity for that area between the finished grade level at the common boundary line and six (6) feet above said level and horizontally along the length of all common boundaries. A six-foot-high solid wall or fence may be substituted to meet the visual screen requirements of this section when existing trees located in the buffer strip prevent the development of a planted landscape screen.
 4. *Prevailing requirement.* Whenever parcels of land fall subject to both the perimeter landscaping requirements and the

uncomplimentary land use buffer strip requirements of the article, the latter requirement shall prevail.

- (7) *Buffer standards relating to multifamily uses and zones.*
- (a) In multifamily land uses or zones, a buffer strip shall be required. Said buffer strip shall be at least twenty-five (25) feet in width the entire length of all such common boundaries.
 - (b) Buffer material requirements shall be as follows:
 - 1. *Tree count.* The total tree count required within the buffer strip shall be determined by using a ratio of one tree for each twenty-five (25) linear feet of required buffer strip, or majority portion thereof, with a minimum of fifty (50) percent of said trees being native shade trees. Trees shall be spaced so as to allow mature growth of shade trees.
 - 2. *Ground cover.* Grass or other ground cover shall be planted on all areas of the buffer required by this section which are not occupied by other landscape material.
 - 3. *Visual screen.* A visual screen running the entire length of all common boundaries shall be installed within the buffer strip, except at permitted accessways. Such strips shall provide a minimum of sixty (60) percent opacity for that area between the finished grade level at the common boundary line and six (6) feet above said level and horizontally along the length of all common boundaries. A six-foot-high solid wall or fence may be substituted to meet the visual screen requirements of this section when existing trees located in the buffer strip prevent the development of a planted landscape screen. If the solid fence or wall is substituted, it must be located behind a visual screen of shrubs planted at a minimum height of twenty-four (24) inches and not exceeding three (3) feet on center. The minimum height of the shrubs shall be four (4) feet and the maximum height shall be six (6) feet.
 - 4. *Prevailing requirement.* Whenever parcels of land fall subject to both the perimeter landscaping requirements and the multifamily land use buffer strip requirements of the article, the latter requirement shall prevail.
- (8) *Plant material standards.*
- (a) Unless otherwise provided herein, only Florida No. 1 or better plant material as described in "Grades and Standards for Nursery Plants," Part I 1963 and Part II, State of Florida, Department of Agriculture, Tallahassee, shall be credited on the landscape development requirements of this section.
 - (b) Portions of a developed area left in the natural state shall be credited in the landscape development requirements of this section.

- (c) Trees shall be subject to the following:
1. Height. Trees shall have a minimum height of eight (8) feet and minimum diameter of one and one-half (1 1/2) inches measured at four and one-half (4 1/2) feet aboveground at the time of planting.
 - 1a. Height and rootball size in the A1A Scenic Corridor. Trees shall have a minimum height of twelve (12) feet and a minimum diameter of four (4) inches measured at six (6) inches above ground at the time of planting. The rootball shall have a ninety-five-gallon minimum container or equivalent rootball size. The minimum rootball size diameter shall be forty (40) inches or, if in a growbag, shall have a diameter of thirty (30) inches minimum.
 2. Crown spread. Species of trees which will meet the twenty-foot mature height requirement, but will have an average mature crown of less than twenty (20) feet, may be substituted by grouping the same so as to create the equivalent of a crown spread of twenty (20) feet.
 3. Planting area. The planting area for each tree shall be a minimum of one hundred (100) square feet around the trunk of the tree and shall be maintained in either vegetative landscape material or pervious surface cover.
 4. Plant materials shall conform to the standards for Florida No. 1 or Florida Fancy as stated in "Grades and Standards for Nursery Plants," (current version) State of Florida Department of Agricultural and Consumer Services Division of Plant Industries. The preservation and use of native vegetation is highly encouraged. Plant materials selected shall be the best suited to withstand the soil and physical conditions of the site. Plant materials that are freeze and drought tolerant are preferred.
 5. Tree planting and maintenance procedures for replacement trees shall follow the "Tree, Shrub and Other Woody Plant Maintenance Practices," on pruning, fertilization and support systems called the ANSI (American National Standards Institute) A300 Standard. Transplanting and establishment of trees shall follow those described in Typical Tree Bid Specifications for Florida, part 2 (shipping and handling) part 3 materials, and part 4 (execution) developed by the University of Florida, the Florida Urban Forestry Council and the Florida Chapter of the International Society of Arboriculture.

6. Maintenance practices on the protected trees on the site shall follow the pruning, fertilization and support practices contained in the ANSI A300 Standard.
 7. Plant materials must be maintained in a healthy condition in perpetuity.
- (d) Shrubs and hedges shall be subject to the following:
1. *Minimum height.* They shall be a minimum height of twelve (12) inches at the time of planting. The minimum planting height shall be increased to twenty-four (24) inches for multifamily projects.
 2. *Opacity conformance.* When used to meet the visual screening requirements of this section, they shall conform to the opacity requirements within three (3) years from the time of planting.
 3. *Prohibited species.* No species of deciduous shrub shall be credited on the visual screening requirements of this subsection.
 4. *Placement.* The placement of shrubs used to fulfill the visual screening requirements shall not exceed five (5) feet on center, and shall be no closer than two (2) feet to the edge of any pavement. For multifamily projects, the visual screening requirements shall not exceed three (3) feet on center.
- (e) Vines, groundcover, lawn grasses, synthetic plant material, and architectural planters shall be subject to the following:
1. *Vines.* Vines shall be thirty (30) inches in length within one (1) calendar year from the time of planting.
 2. *Groundcovers other than lawn grasses.* Groundcovers other than lawn grasses shall be planted so as to provide seventy-five (75) percent coverage within one (1) calendar year from the time of planting.
 3. *Lawn grasses.* Lawn grasses shall be subject to the following:
 - a. Lawn grasses planted for credit on the landscaping requirements shall be perennial species capable of thriving in the county.
 - b. Lawn grasses shall be planted so as to achieve complete coverage within two (2) calendar years from the time of planting.
 - c. Grasses may be sodded, sprigged, plugged or seeded except that solid sod shall be used in swales or other areas subject to erosion.
 4. *Synthetic plant material.* No credit shall be granted for use of artificial plant material.

5. *Architectural planters.* Credit shall be given for use of architectural planters which meet the following criteria:
 - a. Architectural planters for shrubs shall have a planting area of not less than ten (10) square feet and a depth of not less than eighteen (18) inches.
 - b. Architectural planters for trees shall have a planting area of not less than twelve (12) square feet and a depth of not less than four (4) feet.
- (f) Irrigation or access to irrigation shall be provided for all landscaped areas. Such irrigation shall also be indicated on the landscape plan required herein.

E. Section 5.01.09, *Flagler County Shade Trees*, in Article V, *Other Development Design and Improvement Standards*, of Appendix C, *Land Development Code*, is amended to read as:

Native Shade Trees	Other Acceptable Shade Trees
Elm, Winged (U. Alata)	Ash, Green (Fraxinus Pennsylvanica)
Hickory, Pignut (C. Glabra)	Camphor (Cinnamomum Camphora)
Magnolia, Southern (M. Grandiflora)	Cypress, Bald (Taxodium distichum)
Maple, Red (A. Rubrum)	Elm, Chinese (U. Parvifolia) flora)
Oak, Laurel (Q. Laurifolia)	Elm, Drake (U. Parifolia Var. Drake)
Oak, Live (Q. Virginiana)	Oak, Shumard (Q. Shumardii)
Southern Red Cedar (Juniperus Silicicola)	Pecan (C. Illinoensis)
Sweetgum (Liquidambar Styraciflua)	Sycamore (Platannus Occidentalis)
Oak, Water (Q. Nigra)	Other trees as may be allowed by the County Planner and State Forester.

FAMILY:

- C = Carya
- M = Magnolia
- A = Acer
- Q = Quercus
- U = Ulmus

F. Sections 6.01.00 through 6.01.08, *Index Tree Removal and Protection*, in Article VI, *Resource Protection Standards*, of Appendix C, *Land Development Code*, is amended to read as:

6.01.00 PROTECTED INDEX TREE REMOVAL AND PROTECTION

The purpose of this section is to provide for the protection and replanting of tree canopy native to Flagler County; to provide incentives for developers, permittees, and land owners to preserve protected index trees; and to establish procedures, standards and enforcement provisions.

Building footprints, drives, stormwater management facilities, and similar activities on all sites shall be designed to save the maximum practicable number of specimen and historic trees. During the subdivision platting process, lot lines shall be shifted for the same purpose.

6.01.01. Definitions.

The definitions set forth herein are intended to be read para materia with those in Article III. In the case of a conflict, this section will prevail.

For the purposes of this section, the following words and phrases shall have the meaning set forth herein:

Agricultural: Land having an agricultural classification pursuant to Chap. 193.461, F.S. and used primarily for bona fide agricultural purposes as defined in Chap. 193.461(3)(b), F.S.

A1A Scenic Corridor: As defined by Ordinance 2001-26, as may be amended from time to time.

Building footprint: The portion of the lot, tract or parcel upon which buildings are to be placed.

Caliper: A measurement of a tree's size in inches, as measured: six (6) inches above the ground level for field grown nursery stock and from the soil line for container grown nursery stock, which should be at or near the top of the root flare; six (6) inches above the root flare for bare root nursery stock, up to and including the four (4) inch caliper size interval (i.e., from four (4) inches up to, but not including, four and one-half (4 1/2) inches); twelve (12) inches above the ground level, soil line, or root flare, as appropriate, for nursery stock if the caliper measured at six (6) inches is four and one-half (4 1/2) inches or more. Caliper measurements should be taken with a diameter tape, or as the average of the smallest and largest measurements resulting from the use of manual or electronic "slot" or "pincer" type caliper tools.

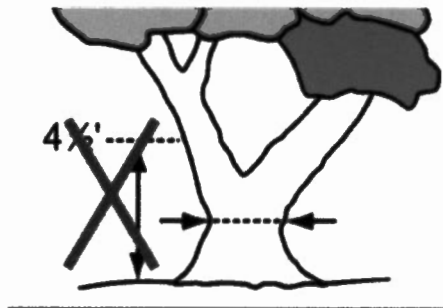
Canopy: The overall area of a tree's foliage, the outer edge of which is the drip line.

Developed property: One which has received a certificate of occupancy for the principal building or a majority of the buildings in a multi-structure complex.

Diameter at breast height (DBH):

- A. Single trunk tree – The measurement of an existing tree's trunk diameter in inches measured roughly four and one-half (4 1/2) feet above ground.
- B. Split-trunk tree – When the trunk branches or splits less than 4 1/2 feet from the ground, measure the smallest diameter below the lowest branch.
- C. Multi-trunk trees – size is determined by measuring it shall be the diameter of the individual trunks (max. six trunks) measured at 4 1/2 feet, then adding the total diameter of the largest trunk to one-half the diameter of each additional trunk.

Measuring Split Trunk Tree



Drip line: The outermost edge of the foliage of a tree projected vertically to the ground.

Encroachment: Any activity that has the effect of causing soil compaction, injury to lower limbs, grade change, contamination of soil or damage to the root system. Excluded from this definition are routine maintenance activities such as mowing or walking within the protected index tree's drip line.

Firewise communities: A program developed by the National Wildland/Urban Interface Fire Program administered by the Division of Forestry of the Florida Dept. of Agriculture and Consumer Services.

Index tree: ~~An index tree is free of significant defects in structure or decay of a species listed in section 6.01.04 Index Tree List, and having a minimum caliper of six (6) inches DBH.~~

Land clearing: The removal of protected index trees, soil or mineral deposits or the placement of fill by any means with the intention of preparing real property for non-agricultural development purposes. This definition does not include removal of

other than protected index trees; dead or diseased trees of any species; removal of trees in accordance with Firewise Communities standards; underbrushing; or normal mowing or agricultural operations.

Nonresidential: That development, or portion thereof, devoted to commercial, industrial, or institutional land use(s). This does not include agriculture or forestry or essential governmental services.

Nuisance Tree: Brazilian Pepper (*Schinus terebinthifolius*), Australian Pine (*Casuarina spp*), punk tree (*Melaleuca leucadendion*) and Chinese tallow (*Sapium sebiferum*).

Protected tree: ~~Refers to an index tree protected in the course of development and construction.~~ A protected tree is free of significant defects in structure or decay of a species listed in section 6.01.04, Protected Tree List, subject to the conditions below for these species:

- A. The trunk is six inches or greater diameter.
- B. Trees with a trunk two inches or greater diameter, if surveyed for credit.
- C. Specimen trees, which are any protected trees with a trunk of 18 inches or greater diameter except for sand pines.
- D. Historic trees, which are any protected trees with a trunk of 36 inches or larger diameter.

Prune: The removal of dead, dying, diseased, weak or objectionable branches in a manner consistent with the standards established in this code.

Replacement tree: A field grown or container grown tree of a species listed in section 6.01.04 and having a minimum caliper as required herein. (see "caliper" definition)

Replacement tree (A1A Corridor only): A field grown or container grown tree of a species listed in the Interim Replacement Tree List for the A1A Scenic Corridor, having a minimum caliper of six (6) inches ~~measured at four and one-half (4½) feet above ground~~ and having a minimum height of twelve (12) feet when planted.

Specimen or historic tree: A tree meeting the minimum size requirements as defined under "protected trees". ~~Having been designated as such by resolution.~~

Submerged land: That portion of a parcel lying below the mean high water line of a tidal water body; the seasonal high water line of a fresh water body; or the design elevation of a man-made water body. The latter excludes dry retention areas.

Tree, protected index: See Protected Index tree.

Tree relocation: To transplant an protected index tree from one location to another.

Tree removal: To permanently remove the trunk and/or root system of a an protected index tree.

Tree survey: A survey prepared by a Florida licensed land surveyor showing, in addition to all information required by Rule 61G-176, F.A.C. the location, DBH, and common name of all qualifying protected index trees within the area proposed for development. Non-protected index trees may be designated as "clumps" with the general location and predominant type shown. (See EXHIBITS 1-A and 1-B)

Underbrushing: The removal of nuisance trees, understory and vegetation by means of bush hogging or hand clearing above grade only.

6.01.02. Requirements prior to land clearing.

(1) No person shall proceed with protected index tree removal or land clearing on any improved, vacant or unimproved land except in accordance with the procedures and standards of this section.

A. Contemporaneous with a site plan, subdivision, or planned unit development application, building permit, infrastructure permit or application for special exception approval, the following information must be submitted:

1. A tree survey, less than twenty-four (24) months old, as defined herein. Jurisdictional wetland areas may be designated by their outer perimeter. ~~When land clearing is not proposed on individual lots or parcels, but is a part of subdivision improvements, the tree survey for such purpose will extend thirty five (35) feet either direction of road rights-of-way and other affected areas, e.g. retention ponds, drainage easements, lift stations.~~

2. Under the following circumstances, the County administrator or designee may determine that a survey identifying each individual protected tree is not warranted and a count of all protected trees including species and diameter size is acceptable. In these instances, a sample survey from each unique ecosystem can be provided (minimum sample size shall be 1/4 acre per sample, or as determined by the County Administrator or designee during conceptual site plan review), and the results of that sample can be extrapolated over the entire area to be disturbed to get an overall estimate of tree density and caliper inches):

- a. When existing vegetated areas are to remain undisturbed; or
- b. When the trees are located in wetland preservation or conservation areas that will not be impacted; or
- c. When a site is comprised of over 20 acres in size or is comprised of less than two (2) community/habitat types.

32. A legible site development plan drawn to one (1) inch equals twenty (20) feet scale or to the largest practicable scale indicating the following applicable items:

- i. Location of all proposed structures, improvement and site uses, properly dimensioned and referenced to property lines, setback and yard requirements.
- ii. Proposed site elevations, including any proposed fill or excavation.
- iii. Location of proposed or existing utility services, wells or septic systems.
- iv. The common name, size and location of all protected index trees on the site specifically designating the protected index trees to be retained, removed, relocated or replaced.

- a. All protected trees used to meet the minimum preservation standards shall be located within public R/W's, the landscape buffers, designated preservation areas, and elsewhere on a site where the protected trees will not be impacted by development.

- b. All specimen and historic trees will be located within public R/W's, designated preservation areas, and elsewhere on a site where the specimen and historic trees will not be impacted by development.

- v. Typical location and construction of tree barricades.
- vi. For all applications other than an individual single family building permit, tree information shall be summarized in legend or tabular form.

43. Landscaping plan.

54. Applications involving improvements to existing developed properties may be based on drawings showing only that portion of the site directly involved and adjacent structures or portions thereof. In such cases, a tree survey is not required. A sketch showing the approximate location(s) of all existing

protected index tree(s) with common and botanical name shall be provided instead.

65. Where protected index trees are not, because of past use and/or current conditions, reasonably presumed by the county to exist on a site, an affidavit duly executed by the property owner, engineer, certified arborist, or landscape architect, attesting to such condition may be substituted for a tree survey.
- (2) Authorization to proceed. The development services department shall authorize land clearing through the issuance of the building or development permit. Land clearing is subject to site inspection by the county from application to one (1) year after completion of activity.
- A. Criteria for land clearing. Land clearing will be authorized after the development services director or his/her designee determines that the following conditions, as applicable, exist:
1. The property has received site plan, special exception or preliminary plat approval pursuant to this Code, has received or applied for a building permit, or is an occupied residential or non-residential property.
 2. A protection and mitigation plan, ~~tree relocation or replacement plan~~ meeting the requirements of this section and Section 6.01.03 is a condition precedent to land clearing.
 3. ~~The index tree is located in the building pad, swimming pool or deck, roadway pavement or vehicular use area, stormwater retention area, or a utility or drainage easement where a structure or improvement is to be placed.~~
 34. The protected index tree is in danger of materially impairing the structural integrity of existing or proposed structures, materially interferes with utility service, or adversely affects sight distance triangles.
 45. The protected index tree has one or more defects which, in the opinion of a certified arborist, is near death and can not be rehabilitated ~~will cause branch, stem or root failure.~~
 56. Tree protection barriers have been installed on the property per approved tree protection plan. ~~No specimen or historic tree may be removed except by authorization of the board of county commissioners.~~
- B. The authorization for land clearing shall expire contemporaneously with its associated permit.

6.01.03. Protected index tree protection/replacement requirements.

The individual property owner and/or landscape architect are provided flexibility of design but must preserve a minimum percentage of existing protected index tree

canopy in a manner to support the long-term health and survival of protected trees. Existing trees are best protected within clusters of open space left undisturbed by grade changes, soil compaction, mechanical or chemical disturbance.

- (1) The minimum number of protected index trees to be preserved upon any development site is equal to the percentages set forth below for different land uses. Protected index trees lying within designated conservation areas, jurisdictional wetlands and adjacent upland buffers must be preserved in their entirety. By way of example, a building lot contains an aggregate of one hundred (100) caliper inches of protected index trees and the minimum preservation equals seventy (70) forty (40) percent. This seventy (70) forty (40) inches of required protected index trees can be preserved as a ~~single forty (40) inch DBH index tree; two (2) twenty (20) inch DBH trees; or~~ any combination of qualifying preserved and/or replacement protected index trees totaling seventy (70) forty (40) caliper inches.
 - A. *Single-family dwelling lots:* Each single-family residential lot must preserve or replant at least fifty (50) forty (40) percent of the total pre-development caliper inches existing on the site. Preserved protected index trees may be substituted for tree planting required by the landscaping section of this Code. Trees located within or immediately adjacent to (within ten (10) feet of the foundation, or where the crown or rootball extend within the limits of the foundation, whichever is greater as to its encroachment) the building foundation are exempt.
 - B. *Multi-family and mobile home park parcels:* Each multi-family and mobile home park parcel must preserve or replant at least seventy (70) thirty five (35) percent of the total pre-development caliper inches existing on the site. Preserved protected index trees may be substituted for tree planting required by the landscaping section of this Code. Replacement trees may be clustered within pervious areas of the site provided that at least five hundred (500) square feet of green space per tree is provided.
 - C. *Non-residential and mixed use parcels:* Each non-residential and mixed use parcel must preserve or replant at least seventy (70) twenty (20) percent of the total pre-development caliper inches existing on the site. Preserved protected index trees may be substituted for tree planting required by the landscaping section of this Code. Replacement trees may be clustered within pervious areas of the site provided that at least five hundred (500) square feet of green space per tree is provided.
 - D. Where replacement trees are required to be planted in order to maintain the minimum number of caliper inches, and they shall be from a species listed as an protected index tree.

1. Protected tree replacements shall have a minimum caliper of two and one-half (2 1/2) inches measured six (6) inches above grade after planting and be Florida Grade No. 1 or better.
2. Specimen tree replacements shall have a minimum caliper of three and one-half (3 1/2) inches measured six (6) inches above grade after planting and be Florida Grade No. 1 or better.
3. Historic tree replacements shall have a minimum caliper of six (6) inches measured six (6) inches above grade after planting and be Florida Grade No. 1 or better.

Tree planting and maintenance procedures for replacement trees shall follow the "Tree, Shrub and Other Woody Plant Maintenance Practices," on pruning, fertilization and support systems called the ANSI (American National Standards Institute) A300 Standard. Transplanting and establishment of trees shall follow those described in *Typical Tree Bid Specifications for Florida*, part 2 (shipping and handling) part 3 materials, and part 4 (execution) developed by the University of Florida, the Florida Urban Forestry Council and the Florida Chapter of the International Society of Arboriculture.

E. *A1A Scenic Corridor*: The pallet of protected trees in the A1A Scenic Corridor is more inclusive than for the county as a whole. This expanded protection is designed to preserve the native ecosystems in the Corridor. A list of protected ~~index~~ trees established by Ordinance 2001-26 is available at the Planning and Zoning Dept. and incorporated into the Scenic Corridor Design Guidelines Handbook. The minimum number of protected ~~index~~ trees to be preserved upon any development site is calculated as set forth previously within this section however, the list of protected trees is more expansive and the following percentages of aggregate caliper inches shall apply:

1. Nonresidential, mixed use, and multi-family parcels: Each nonresidential, mixed use, or multi-family parcel owner must preserve or replant at least seventy (70) ~~fifty (50)~~ percent of the total pre-development caliper inches existing on the site. Property owners are encouraged to use preserved protected ~~index~~ trees to satisfy perimeter and interior landscaping requirements.
2. Single-family parcels: Every single-family lot owner must preserve or replant at least fifty (50) ~~forty (40)~~ percent of the total pre-development caliper inches existing on the site.
3. Where protected or specimen trees must be replaced or planted to meet minimum preservation or landscape buffer requirements within the Scenic Corridor Overlay district, all

plant material will consist of a tree species listed in the Scenic Corridor Index Tree List ~~and that has a minimum caliper of four (4) inches measured at six (6) inches above ground and has a minimum height of twelve (12) feet when planted. The rootball shall have a ninety five (95) gallon minimum container or equivalent rootball size. The minimum rootball size diameter shall be forty (40) inches or, if in a growbag, shall have a diameter of thirty (30) inches minimum. Sabal palms shall have a minimum twelve (12) feet of clear trunk.~~ Plant materials shall conform to the standards for Florida No. 1 or better as given in "Grades and Standards for Nursery Plants," (current version) State of Florida Department of Agricultural and Consumer Services, or equal thereto that has been approved by the county agricultural extension agent. The preservation and use of native vegetation is highly encouraged. Plant materials selected shall be the best suited to withstand the soil and physical conditions of the site. Plant materials that are freeze and drought tolerant are preferred;

4. Replacement trees shall approximate the distribution of native vegetation ~~Where a one to one (1:1) replacement is not practical as reasonably determined by the county administrator or his/her designee, the tree shall be replaced in multiples to yield a sum of equivalent calipers;~~
5. Whenever a protected tree is removed without legal authorization or in violation of this code, the owner shall replace such removed trees on a one to three (1:3) ratio. For example, if a twenty (20) inch caliper tree is illegally removed, it shall be replaced by a tree or trees equivalent to sixty (60) inches in caliper from the Interim Replacement Tree List or an equivalent tree species;
6. Proposed trees shall be Be given sufficient room for optimum growth. If the county administrator or his/her designee reasonably determines that there is insufficient space on the site to plant the required replacement trees for optimum growth, then the owner may be directed to plant the trees in publicly owned areas of the A1A Scenic Corridor, ~~or~~ in privately owned strategically visible locations with the permission of the property owner, or donate to the tree fund.
7. Trees installed or retained within the A1A Scenic Corridor shall not be topped or severely pruned so as to appear stunted or "hat racked". Trees shall be pruned as needed to maintain health and form in such a way that retains or improves the natural form of the particular species; provided, topiary may

be practiced upon suitable species if professionally and consistently maintained. The branches of a tree extending over any public sidewalk shall be trimmed to at least the height of eight (8) feet above the sidewalk. The branches of a tree extending over the travel portion of any street used for vehicular traffic shall be trimmed to fifteen (15) feet above the street. All tree pruning shall be conducted according to the standards of the National Arborist Association Standards set forth in ANSI A300 (Part 1) Tree Pruning. All landscaping installed or retained to meet the requirements of this section shall be maintained in a healthy and growing condition.

- F. All replacement or relocated protected index trees must be maintained in a healthy and growing condition for a minimum of two (2) years from the date of the last certificate of occupancy in the development. All trees that, in the opinion of the county, will not survive for this minimum time period will be replaced by the property owner.

6.01.04. Protected index trees.

The following protected index trees having a caliper of six (6) inch DBH or greater are protected under the terms of this regulation and also constitute acceptable replacement trees subject to minimum size requirements:

Common Name	Botanical Name
Ash	<i>Fraxinus spp.</i>
<u>Bald Cypress</u>	<u><i>Taxodium distichum</i></u>
Bay	<i>Persea spp.</i>
Black Cherry	<i>Prunus Serotinia</i>
Cherry Laurel	<i>Prunus laurocerasus</i>
Cypress, bald	<i>Taxodium distichum</i>
Cypress, pond	<i>Taxodium ascendens</i>
Devil's Walking Stick	<i>Aralia spinosa</i>
Elm	<i>Ulmus spp.</i>
Hackberry	<i>Celtis laevigata</i>
Hickory	<i>Carya spp.</i>
Holly	<i>Ilex spp.</i>
Magnolia, Southern	<i>Magnolia grandiflora</i>
Magnolia, Sweetbay	<i>Magnolia virginiana</i>
Maple, Red	<i>Acer rubrum</i>
Oak	<i>Quercus spp.</i>
Persimmon	<i>Diospyros virginiana</i>

Common Name	Botanical Name
Redbud, Eastern	<i>Cercis canadensis</i>
Red Cedar, Eastern	<i>Juniperus Virginiana spp.</i>
Red Cedar, Southern	<i>Juniperus Silicicola spp.</i>
Sweetgum	<i>Liquidambar styraciflua</i>
Sycamore, American	<i>Platanus occidentalis</i>
Tupelo, Black	<i>Nyssa sylvatica</i>
Tupelo, Swamp	<i>Nyssa aquatica</i>
Yellow-Poplar(Tulip tree)	<i>Liriodendron tulipifera</i>

County staff may accept other broadleaf hardwood trees as replacements upon a finding of suitability.

6.01.05. Tree protection during construction.

(1) *Standards for tree protection during development.* The following are minimum standards necessary to protect trees designated for preservation from damage during land clearing and development activities after the permit has been approved.

A. *Protection of existing trees.* Prior to any clearing of improved, vacant or unimproved land unless specifically exempted from this section, trees to be preserved shall be identified, staked and clearly marked to prevent physical damage from heavy equipment and other activities incidental to development. Required tree protection barriers shall be subject to inspection for the duration of the activity.

1. Whenever there is any planned encroachment into the dripline of an protected index tree proposed for preservation, the applicant is recommended to secure the services of a licensed certified arborist. The certified arborist should prepare a written report indicating the chances for long term survival of the tree and best practices to be employed during and after construction. As an alternative, the county shall review the protection program for approval.
2. Root pruning. The roots of all trees to be protected shall be cleanly pruned at the edge of proposed land disturbance activity.
3. Tree Barriers or barricades. The barriers or barricades shall be installed per the tree protection details included in the approved landscape / tree protection plans, conspicuous enough and high enough to be seen easily by operators of trucks and other equipment. Prior to immediately following the clearing of underbrush, barricades shall be installed and required to remain in place throughout the construction

period. Absent a tree protection detail in the landscape plan, the minimum size of wood barrier fencing shall be two (2) inches by four (4) inches and the top of the barrier shall be a minimum of four (4) feet high. Another acceptable means of barricading trees is the use of orange plastic construction fence, four (4) feet high, and supported every eight (8) feet by rebar, driven into the ground. Fencing shall be securely attached to rebar by the use of nylon zip ties or twisted wire. Barricades must be taut and perpendicular to ground.

a. Failure to install tree protection barriers prior to clearing shall result in a fine to the owner. Initial fine for failure to install tree protection barriers prior to clearing shall be up to \$1,000 for a first violation upon a finding by a special magistrate that the violation is irreparable or irreversible in nature, and fines shall accrue \$100 per day until installed. In making the findings, the special magistrate shall consider the gravity of the violation, the actions taken by the violator to correct the violation, and any previous violations committed by the violator.

4. *Other required protection of trees:* The developer or permittee shall protect the trees designated for preservation in the approved permit from physical damage, chemical poisoning, excavation and grade changes to at least the following minimum standards:

- a. *Utility and irrigation line trenches.* Trenches shall be routed away from trees to an area outside the drip line to the maximum extent possible or directionally bored.
- b. *Grade changes.* If approved by the county, retaining walls or dry wells may be utilized to protect root systems from severe grade changes.
- c. *Development activities.* No vehicle maintenance, storage of construction materials or debris, or cleaning of equipment shall take place within the barricaded area.

5. *Pruning of trees and vegetation.* Pruning of branches and roots of trees must be in compliance with the standards established by the American National Standards Institute (ANSI A-300).

6. *Root system protection.* The root systems of trees shall be protected as follows:

- a. The protected area shall be mulched and irrigated regularly according to seasonal needs.

- b. The permittee shall protect tree root systems from damage due to noxious materials in solution caused by runoff, or spillage during mixing and placement of construction materials, or drainage from stored materials. Root systems shall also be protected from flooding, erosion or excessive wetting resulting from dewatering operations.
7. *Trees damaged during construction.* Trees damaged by construction must be repaired under the direction of a certified arborist consistent with the code provisions and in a manner acceptable to the county.
- a. *Immediate notification of county.* Flagler County Development Services must be notified immediately after any damage to any tree by construction operations.
 - b. *Prompt repair.* Such repairs as necessary shall be made promptly after damage occurs to prevent progressive deterioration of damaged trees.
 - c. *Removal and replacement of damaged trees.* The developer or permittee shall remove trees which are determined by the county to be incapable of restoration to normal growth pattern. Such trees shall be subject to replacement under the provisions of this section.

6.01.06. Exemptions.

The following activities are specifically exempt from the procedures and standards of this section:

- (1) Agricultural activities including harvesting of commercial timber. The latter must comply with the latest addition of "Silviculture Best Management Practices" published by the Florida Department of Agriculture and Consumer Services.
- (2) Tree removal directly within a public or private road right-of-way for the installation of required subdivision improvements.
- (3) Individual service connections and construction, installation of public utility lines provided, however, they comply with Section 6.01.05(4)(a); septic tanks, lines or drain fields; compacted fill within the limits of the approved building footprint.
- (4) Emergency work to protect life, limb or property. This includes clearing that is in conformance with firewise community protection standards set forth by the division of forestry.
- (5) Maintenance activity along road sides, under wires, around fire hydrants and similar instances.

- (6) *Damaged trees.* Trees suffering major structural damage or destroyed by force majeure are exempt from this section as determined by the county.
- (7) *Licensed plant and tree nurseries.* Plant and/or tree nurseries licensed pursuant to the Florida State Department of Agriculture and Consumer Services, Division of Plant Industry shall be exempt from the terms and provisions of this article in relation to those trees planted and growing on site for wholesale and/or retail sale purposes in the ordinary course of said licensee's business.
- (8) A tree or trees required or authorized to be cut down, destroyed, removed or relocated or destructively damaged by a county, state or federal law, or by rules promulgated by a county, state or federal agency.

6.01.07. Enforcement.

- (1) *Generally.* The development services director or his/her designee shall enforce the provisions of this section.
- (2) *Individual enforcement.* Each violation of this section or any of its subsections is deemed a separate and distinct infraction of the land development code. Each protected ~~index~~ tree to be protected may be the subject of individual enforcement.
- (3) *Strict liability of owner.* The owner of any property where a tree or trees have been cut down, destroyed, removed, relocated or destructively damaged shall be held strictly liable for a violation of this section unless it can be proven that the damage was caused by:
 - A. An act of God;
 - B. An act of War;
 - C. Development activities on the property in compliance with an approved permit; or
 - D. The owner alleges that the damage was caused by vandals or trespassers and the owner of the property has filed a police report for the incident and had taken reasonable security measures to prevent unauthorized access to the property.
- (4) *Stop-work order.* The enforcement agency shall immediately issue an order to cease and desist any work being carried out in violation of this section or any permit conditions promulgated under this section. Upon notice of such violation, no further work shall take place until appropriate remedial action is instituted, as determined by the enforcement agency.
- (5) *Other enforcement.* Nothing in this section shall prohibit the county from enforcing this section by other means.

6.01.08. Penalties.

- (1) *Fine and replacement.* Each violation of this section shall be punishable in a court of competent jurisdiction by a fine of no more than five hundred dollars (\$500.00) plus replacement of the trees removed from the site.

unless indicated otherwise. The removal, relocation or destruction, including dripline encroachment, of each tree for which a permit is required in violation of this section shall constitute a separate offense under this section. If the violation is discovered subsequent to stump removal, a presumptive count of one (1) qualifying protected index tree per four thousand (4,000) square feet, or major portion thereof, shall be employed in the absence of specific evidence of the actual number of trees destroyed.

(2) *Withholding of permits.* Failure of any party to follow the procedures as required by this section shall constitute grounds for withholding site plan approval, building permits, occupancy permits or any other appropriate approvals necessary to continue development until remedial action is completed in accordance with this section.

(3) In addition to the above, each violation of this Ordinance may be prosecuted as provided by Section 125.69, Florida Statutes 2004, as may be amended, which currently provides as follows:

"Violations of this ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished by a fine not to exceed \$500 or by imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment."

(4) In the event of a violation, the penalties set forth in this Ordinance shall be applicable to the offending property owner, tenant, any contractor clearing the owner's property or any other person operating on behalf of the owner.

G. Section 6.01.09, *Tree bank fund established*, in Article VI, *Resource Protection Standards*, of Appendix C, *Land Development Code*, is created to read as:

6.01.09. Tree bank fund established.

(1) If due to site conditions or configuration, the planning and development board determines that it is impossible or impracticable for the property owner, applicant, or developer to meet the requirements for tree density and/or replacement on-site, then the property owner, applicant, or developer shall pay fees of equivalent value into the tree bank fund or plant the trees off-site upon approval of a suitable site or sites by the County.

The tree bank fund shall be a separate account set up and shown in County financial records in which all receipts are detailed. All monetary contributions paid to the tree bank fund pursuant to this section shall be used exclusively for the design, planting, or replacement of trees on public lands. Funds may also be used for relocating trees onto public lands, and may also be used for the fee and less-than-fee acquisition of private lands

which preserve existing tree canopy, especially those sites which include specimen or historic trees. Funds may also be used for the design and installation of irrigation systems, mulching, and staking for these trees.

- (2) Valuation of contributions to the tree bank fund shall be based on the current market rate cost of a 4" Live Oak tree, delivered, installed, staked, and mulched in accordance with County standards. For example, if the market rate for the above mentioned 4" caliper Live Oak is \$400, the cost per caliper inch is \$100. If an applicant is proposing to meet the tree replacement requirement using the tree fund to replace 200 inches of protected trees, the applicant will pay \$20,000 dollars (\$100/inch x 200 inches).

- H. Section 6.01.10, *Variances*, in Article VI, *Resource Protection Standards*, of Appendix C, *Land Development Code*, is created to read as:

6.01.10. Variances.

The planning and development board is hereby designated as the protected tree board of adjustment and is authorized to consider variances in specific cases where such variances will not be contrary to the public interest and where, owing to special conditions a literal enforcement of the provisions of this section would result in unnecessary hardship. All requirements, procedures, findings and appeals of protected tree variances shall follow those provisions for zoning variances as outlined in Article III, *Zoning District Regulations*.

Section 3. APPLICABILITY.

This Ordinance shall be effective within the unincorporated areas of Flagler County, Florida.

Section 4. CODIFICATION.

- A. Only Section 2 and Exhibits 1-A and 1-B of this Ordinance shall be codified and included within the Code of Ordinances of Flagler County, Florida.
- B. It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Flagler County Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulations," or such other appropriate word or phrase in order to accomplish such intentions.

Section 5. SEVERABILITY.

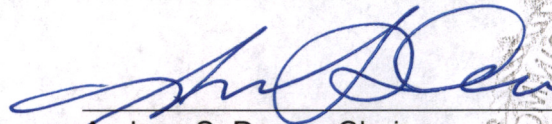
If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 6. EFFECTIVE DATE.

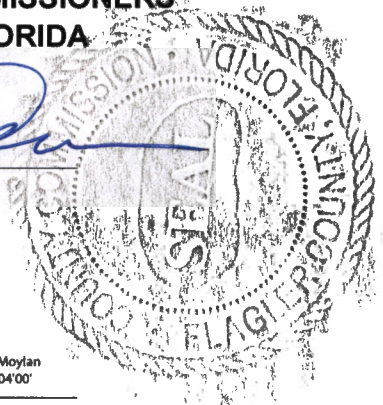
- A. This Ordinance shall become effective upon its filing with the Department of State.
- B. A certified copy of this Ordinance shall be filed with the Department of State within ten (10) days after enactment by the Board of County Commissioners.

PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, UPON SECOND AND FINAL READING THIS 16TH DAY OF SEPTEMBER 2024.

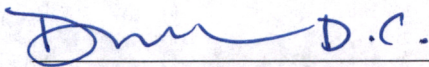
**BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA**



Andrew S. Dance, Chair



ATTEST:



Tom Bexley, Clerk of the
Circuit Court and Comptroller

APPROVED AS TO FORM:

Sean S. Moylan Digitally signed by Sean S. Moylan
Date: 2024.09.04 13:44:03 -04'00'

Sean S. Moylan, Deputy County Attorney

EXHIBIT 1-A

SITE DEVELOPMENT SURVEY REQUIREMENTS

TREE SURVEY REQUIREMENTS

(APPLIED TO ALL MFR/COM, IND & SUBD DEVELOPMENT)

FOR CLARIFICATION, HERE ARE THE BASICS:

1. MUST SHOW 6" DIAMETER AND ABOVE PROTECTED TREES WITHIN THE REQUIRED SURVEY AREAS.
2. MUST SHOW ALL SPECIMEN TREES LOCATED ANYWHERE ON THE SITE. (EXCEPT WETLANDS THAT ARE IN CONVERSATION.)
3. SURVEYED AND SAVED TREES WITH A DIAMETER > 3.5" BUT LESS THAN THE MINIMUM OF 6" DIAMETER CAN QUALIFY FOR CREDIT, IF LOCATED WITHIN THE PERIMETER BUFFER AREAS.

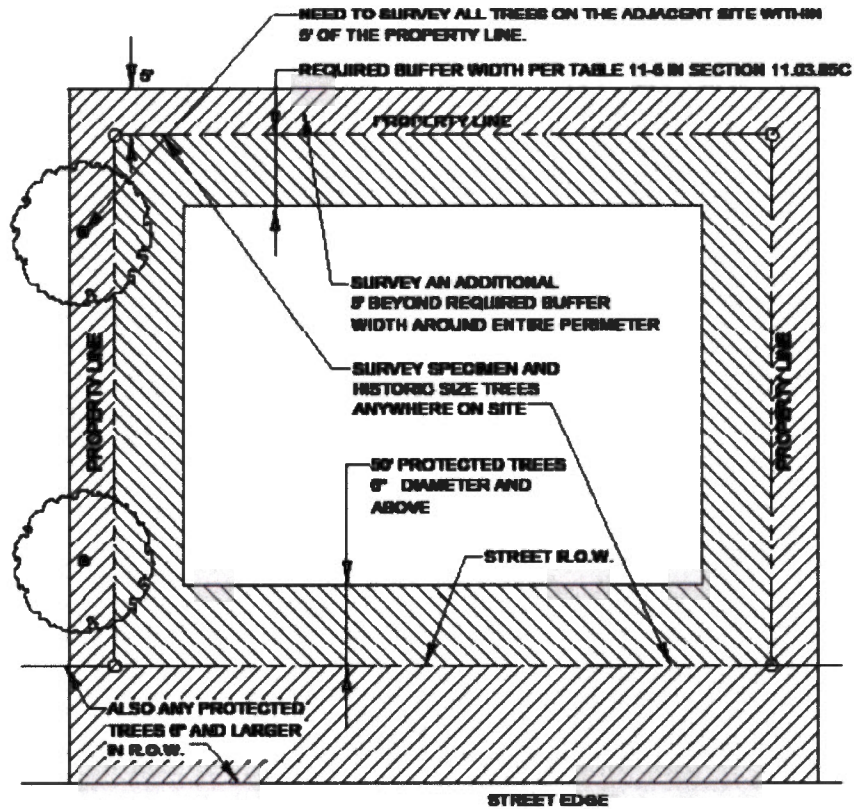


EXHIBIT 1-B

SINGLE FAMILY LOT SURVEY REQUIREMENTS

2. **Tree Survey for SFR/DPX Developments**
Protected trees six (6) inches or greater diameter at breast height within all front, rear, and street side building setback areas shall be shown on the tree survey if the trees are going to be used for credits. Specimen and historic trees shall be surveyed over the entire lot except as provided in lot section 11.02.02D.

**TREE SURVEY REQUIREMENTS
(APPLIED TO ALL SFR/DPX DEVELOPMENT)**

1. EXEMPTING SIDE YARDS ENTIRELY (EXCEPT ON SIDE STREET LOTS)
2. PROTECTED TREES IN THE FRONT YARD SETBACK (20')
3. PROTECTED TREES IN THE REAR YARD SET BACK (20')
4. OTHER THAN FOR SPECIMEN AND HISTORIC TREES, IF EXISTING TREES ARE NOT INTENDED FOR CREDIT THEY ARE NOT REQUIRED TO BE SURVEYED.
5. IF EXISTING TREES ARE USED FOR TREE DENSITY CREDIT THEY MUST BE BARRICATED PER THE CITY STANDARD DETAIL.

