



## Staff Report

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**File #:** LN-523

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### PLANNING AND ZONING BOARD

Meeting Date: JANUARY 24, 2024

### **Text Amendment - Landscaping Revisions and Dune Enhancement**

|                              |                                                             |
|------------------------------|-------------------------------------------------------------|
| <b>Request:</b>              | Text Amendment - Landscaping Revisions and Dune Enhancement |
| <b>P&amp;Z#</b>              | N/A                                                         |
| <b>Owner:</b>                | N/A                                                         |
| <b>Project Location:</b>     | N/A                                                         |
| <b>Folio Number:</b>         | N/A                                                         |
| <b>Land Use Designation:</b> | N/A                                                         |
| <b>Zoning District:</b>      | N/A                                                         |
| <b>Commission District:</b>  | N/A                                                         |
| <b>Agent:</b>                | City-Initiated                                              |
| <b>Project Planner:</b>      | Max Wemyss (954-786-4671 / max.wemyss@copbfl.com)           |

### **SUMMARY:**

The Planning and Zoning and Urban Forestry Divisions have maintained a list of desired Code amendments. The purpose of the amendments is to clarify what is already required by Code, introduce expected industry standards or learned best practices, adjust to changes in State Statutes, and to establish a new Section on beach dune management, restoration, and enhancement.

The amendments have been advised by the Florida Department of Environmental Protection, and presented to the Economic Development Council. The proposed amendments are supported by our Comprehensive Plan, do not create conflict with our Code of Ordinances, and are consistent with the Zoning Code.

Staff recommends approval.

### **PROPOSED AMENDMENTS:**

CHAPTER 155: ZONING CODE

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ARTICLE 2: ADMINISTRATION

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PART 4 APPLICATION-SPECIFIC REVIEW PROCEDURES

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155.2411. TREE PERMIT

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C. Tree Permit Procedure

1. Step 1: Pre-Application Meeting  
Optional (See Section 155.2301.).

2. Step 2: Neighborhood Meeting  
Not applicable.

3. Step 3: Application Submittal and Acceptance

Applicable (See Section 155.2303.), ~~except that. All~~ applications shall be submitted by a Registered Broward County Tree Trimmer and shall include a tree survey and a tree ~~assessment~~ appraisal prepared by an ISA Certified Arborist ~~or registered Florida landscape architect~~ indicating the species, quantity, size, location, condition, status, and value for each tree proposed to be preserved, relocated, or removed.

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155.2421. ADMINISTRATIVE ADJUSTMENT

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| TABLE 155.2421.B.1: ALLOWABLE ADMINISTRATIVE ADJUSTMENTS                 |                                                        |                                                                                |                                          |
|--------------------------------------------------------------------------|--------------------------------------------------------|--------------------------------------------------------------------------------|------------------------------------------|
| Standard                                                                 | Maximum Allowable Extent of Adjustment                 |                                                                                |                                          |
|                                                                          | Minor Administrative Adjustment (All Zoning Districts) | Major Administrative Adjustment (AOD, TO, CRAO, and Non-Residential Districts) |                                          |
|                                                                          | Development Within A                                   | Other                                                                          |                                          |
|                                                                          | Boulevard Overlay Dist                                 | Development                                                                    |                                          |
|                                                                          | Redevelopment of Brov                                  |                                                                                |                                          |
|                                                                          | Site Within Designated                                 |                                                                                |                                          |
|                                                                          | Brownfield Area                                        |                                                                                |                                          |
| ...                                                                      |                                                        |                                                                                |                                          |
| Minimum landscaping area width between vehicular use areas and buildings | <del>20</del> 50% (but not less than 8')               | <del>40</del> 30% (but not less than 8')                                       | <del>30</del> 75% (but not less than 8') |
| ...                                                                      |                                                        |                                                                                |                                          |

ARTICLE 5: DEVELOPMENT STANDARDS  
PART 2. LANDSCAPING AND TREE PRESERVATION

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155.5203. LANDSCAPING

A. Applicability

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2. Existing Development

a. Development Without a Prior Landscape Plan Approved on Record, or Existing Prior to 1974

i. Any development, other than a single-family dwelling, without an approved landscape plan on record, or that was existing prior to 1974 shall comply with the following retroactive standards.

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(C) A landscape strip with an average width of five feet shall be provided between any parking area or driveway and a front or street side lot line. The development shall provide the following landscaping within the planting strip:

(1) A continuous hedge at least 24 inches in height at planting along the length of the landscape strip.

(2) One tree per 30 linear feet along the length of the landscape strip. In lieu of canopy trees, 3 cluster palms may be used due to unique site constraints. Palms shall be planted at least 7 feet from any light fixture mounted on a pole. Understory trees shall be planted at least 10 feet from any light fixture mounted on a pole. Canopy trees shall be planted at least 15 feet from any light fixture mounted on a pole.

(3) Grass or other ground cover in the remaining area of the landscape strip.

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B. General Requirements for Landscaping

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2. Installation

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g. Trees

i. General

(A) Planting activities, including site preparation, shall not unnecessarily damage any other trees to remain on the property.

(B) Trees shall be planted into an area with adequate space for development of their root system and canopy. A minimum area for planting a tree shall be 120 square feet, with a minimum dimension of eight feet in width.

(C) Canopy Trees shall be planted at least 15 feet from any light fixture mounted on a pole. Where permitted, palms shall be planted at least 7 feet and understory trees shall be planted at least 10 feet from any light fixture mounted on a pole.

(D) Before, during, and following planting, the root ball and trunk of the tree shall be protected and the root ball shall be kept moist.

(E) All newly planted trees shall be properly guyed and staked at the time of planting to ensure establishment and erect growth, in accordance with the specifications as set forth in the Administrative Manual. Trees shall be restaked in the event of blow-overs or other failure of the staking and guying. A tree shall remain braced for at least one year after its planting.

(F) A newly planted tree shall be fertilized as appropriate and shall be watered sufficiently until tree growth is established. ~~Written proof of temporary irrigation may be required as a condition of approval of a Tree Permit.~~

(G) Root barriers shall be required where the following conditions exist:

(1) Where trees are within 15'-0" of hardscape a 12" deep ribbed and continuous root barrier shall be placed along the pavement edge, for the length of the anticipated mature canopy spread.

(2) Where trees are planted in tree wells within paved areas a 12" deep ribbed and continuous root barrier shall be placed around the outer edge of the tree well. The size of the tree well shall be determined by the required soil volume necessary for the application. Depending on the adjacent hardscape, a deeper root barrier may be required.

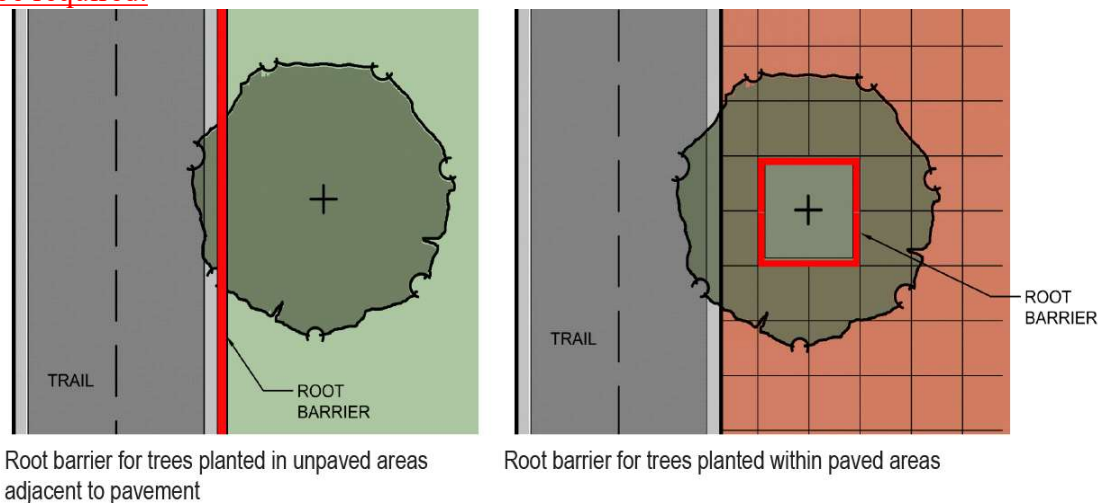


Figure (G)(1): Typical placement of root barriers.

(H) Required tree soil volume shall be provided in accordance with Figure (H)(1): Required Tree to Soil Volume Ratio Graph below.

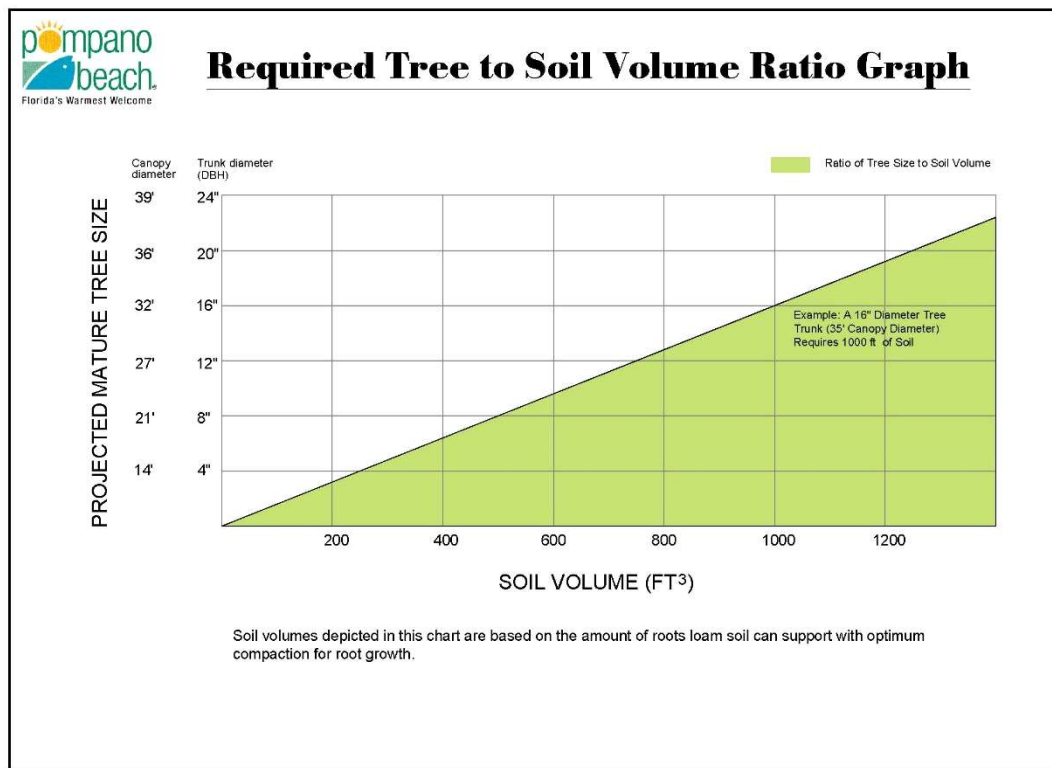


Figure (H)(1): Required Tree to Soil Volume Ratio Graph

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j. Protection from Vehicular Damage

Required landscaping areas shall be protected from vehicular damage by the installation of curbing, ~~wheel stops~~, or other method approved by the Development Services Director.

k. Dry Retention Areas

All dry retention areas shall be landscaped with turf grass or groundcover in accordance with subsections d and e above.

3. Existing Vegetation

a. Existing trees and understory vegetation located within any unique natural area identified in the Pompano Beach Comprehensive Plan, including beach sand dune systems and dune vegetation, shall be preserved, and may be used toward meeting the requirements of this Ssection to the extent they meet the minimum standards of this Ssection.

b. Existing healthy and well-formed trees and understory vegetation shall be preserved and may be used toward meeting the requirements of this section to the extent they meet the minimum standards of this Ssection.

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5. Irrigation System Required

a. Wherever landscaping is required by this Code, it shall be ~~kept maintained~~ in a healthy growing condition through appropriate irrigation by an automatic underground irrigation system installed in accordance with the requirements of the Florida Building Code, prior to the installation of any landscape material.

b. The irrigation system shall include a rain-sensing cutoff device that shall be located and installed so that building eaves, balconies, and similar overhangs do not interfere with effective operation of the device.

- c. The irrigation system shall be properly maintained in good working order and provide a minimum coverage of 100 percent with 50 percent overlap.
- d. Water used for irrigation shall be rust-free except where deemed unnecessary by the Development Services Director.
- e. Water used for irrigation shall be reuse water wherever practicable.
- f. New trees and palms, and relocated trees will require the use of irrigation bubblers.

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## H. Dune Management

### 1. Applicability and Intent

- a. All new development and redevelopment seaward of the Coastal Construction Control Line, abutting the Dune Vegetation Line, or that impact or disrupt existing dunes or associated ecosystems shall follow the standards of this Section.
- b. All existing development seaward of the Coastal Construction Control Line or abutting the Dune Vegetation Line shall maintain the existing dune, associated ecosystem, and planting condition, or the condition most recently approved in accordance with a landscape plan on record.
- c. Coastal dunes are habitat for wildlife and support a high biodiversity of flora and fauna. They also keep beaches healthy by accreting sand and minimizing beach erosion rates. The dunes protect coastal infrastructure and upland properties from storm damage by blocking storm surge and absorbing wave energy. Therefore, a healthy dune system is an invaluable asset to coastal communities like Pompano Beach.
- d. The intent of this Section of Code is to foster and maintain a healthy, stable, and natural dune system that is appropriate for its location. This Code shall guide beachfront property owners in preserving the natural and man-made dunes in a manner most similar to a natural system and ensuring the dune provides storm protection, erosion control, and a biologically-rich habitat for local species.

### 2. Invasive Exotic Removal

Exotic vegetation shall be regularly removed by means that are the least damaging to the existing dune ecosystem. All cleared vegetation shall be removed from the site and shall not be placed, stored, or relocated elsewhere within the dune protection zones.

- a. Targeted Species - Property owners shall be responsible for the physical removal of all vegetative mass, including leaves, stems, and trunks, plus all gross roots of, at a minimum, Category I and II Invasive exotic Pest Plants, as identified by the Florida Exotic Pest Plant Council (FLEPPC), including *Scaevola taccada* (Hawaiian naupaka), *Shinus terebinthifolius* (Brazilian pepper), *Casaurina equisetifolia* (Australian pine) and *Sophora tomentosa* var. *occidentalis* (necklace pod). Problem native species, such as *Dalbergia ecastophyllum* (coin vine) and *Ceasalpinia bonduc* (gray nickerbean), must also be removed, unless otherwise specified by the City.
- b. Plant Disposal - All removed invasive exotic plant mass shall be legally disposed of off-site. No on-site shredding or chipping will be allowed. Organic wrack such as seaweed and other native seagrasses that have washed ashore shall remain in place as a potential seedbank of other beneficial native dune species.
- c. Native Species To Be Protected - Sites may include a mixture of native dune species and targeted/non-native species. Property owners shall take special precautions to ensure minimal impact to the existing dune during the exotic removal efforts. The use of herbicides is prohibited.
- d. Removal Methods - Removal of smaller and medium sized exotic clusters should be done by hand

cutting and digging to remove roots. Mechanized equipment may be used when it is possible to gain access without impact to the existing dune. Post and rope fencing and sand fencing may be temporarily removed for access, but must be replaced upon completion of each section. Property owners shall replace rope and post fencing and/or sand fencing damaged during exotic removal or pruning efforts in accordance with approved permits.

~~e. Exotic Removal Warranty Period—Property owners shall be responsible for maintaining cleared and pruned areas free of seedlings and resprouts for a one-year warranty period.~~

### **3. Restoration and Enhancement**

All properties that include development seaward of the Coastal Construction Control Line, abut the Dune Vegetation Line, or that impact or disrupt existing dunes shall provide dune restoration and enhancement in accordance with the following:

- a. Dune width: 50 to 100 feet as measured perpendicular (shore-normal) to the shoreline.
- b. Dune height: 3 to 4 feet above the back beach berm (surface of sand).
- c. Dune Crest Elevation (NAVD): +11.5 to +13.0 feet above mean sea level.
- d. Distance from mean high water line: landward of the ECL or minimum 100 feet landward of mean high water line.
- e. Slope: 1:10 to 1:5 on seaward slope; 1:1.5 max. on dune ridge (peak); average 1:3 on landward slope.
- f. Vegetation: minimum 3 species indigenous to area; > 70 percent composed of dune grasses; zoned seaward pioneers (railroad vine, seaside purslane), middle sand trapping grasses (sea oats, bitter panicum, marshhay), landward dune grasses and shrubs (saw palmetto, sea grape, bay cedar, sea lavender, necklace pod, etc.); invasive plant removal qualifies for mitigation.
- g. Sand: Sand placed on the beach or seaward of the frontal dune shall follow Florida Department of Environmental Protection (FDEP) guidelines, and shall match the characteristics and properties of the native sand.
- h. Hard Surfaces, Paths and Walkovers
  - i. Refer to Standards for Specific Accessory Structures (155.4303.KK. Uncovered Porches, Decks, Patios, Terraces, and Walkways) for additional standards for hard surface and walkway development within dune areas.
  - ii. Sand paths: 3 feet wide maximum for single family, 5 foot wide maximum width for multifamily or non-residential; dune plantings and paths shall be angled so that the sand path is not perpendicular to the ocean.
  - iii. Walkovers 4 feet wide maximum for single family, 6-ft. wide maximum width for multifamily or non-residential;
  - iv. Sand paths are acceptable for lower height dunes (<11.5 ft NAVD);
  - v. The use of beach mats to enhance accessibility is permitted in dune areas to the minimum extent practicable.
- i. Post and rope: permitted in high traffic areas in accordance with Florida Department of Environmental

Protection (FDEP) guidelines.

- j. Sand fences: not permitted due to concerns with interference with sea turtle nesting.

155.5204. TREE PRESERVATION

A. Intent to Maintain Municipal Certification by Broward County

The standards in this section, when combined with the Tree Permit provisions in Section 155.2411 and enforcement provisions in Article 8: Enforcement, are intended to qualify for certification by Broward County as containing requirements and standards that are as stringent as those in Article XIV (Tree Preservation and Abuse Ordinance) of the Broward County Code of Ordinances, and thus allow delegation to the city of the county's authority to maintain tree preservation and regulate tree abuse within Pompano Beach. The provisions in this section shall be interpreted in accordance with that purpose.

All documents incorporated by reference in Chapter 27, Article 14 of the Broward County Code of Ordinances are adopted as standards and incorporated into this Section of the Pompano Beach Code of Ordinances by this reference.

B. Applicability

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2. Exceptions

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c. ~~Pursuant to Section 163.045, Florida Statutes, as amended, Tree Risk. The~~ pruning, trimming, removal, or replanting of, ~~or mitigation for impacts to,~~ a tree on residential property is exempt from any notice, application, approval, permit, fee, or mitigation requirements of this ~~s~~Section if the property owner ~~obtains~~ possesses documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree ~~presents a danger: (1) poses an unacceptable risk~~ to persons or property; and (2) removal, in lieu of pruning or trimming, is the only means of practically mitigating its risk below moderate, as determined by the tree risk assessment procedures outlined in Best Management Practice - Tree Risk Assessment Second Edition (2017). This exemption implements and adopts by reference Section 163.054, Florida Statutes, as amended, including, but not limited to, the definitions of documentation and residential property, and the standards therein for determining whether a tree poses an unacceptable risk. This exemption does not apply to the exercise of specifically delegated authority for mangrove protection pursuant to Sections 403.9321 through 403.9333, Florida Statutes, as amended.

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C. Tree Removal

1. The Development Services Director shall approve a Tree Permit authorizing tree removal only on making one or more of the following findings:

- a. That the tree removal is necessary to accommodate a proposed development.

~~eb.~~ that the proposed development cannot be located on the site without tree removal, despite every reasonable effort having been made to incorporate the tree(s) proposed to be removed into the development and to minimize the number of trees removed.

~~bc.~~ That the tree proposed to be removed is dead, effectively destroyed, diseased, injured, or otherwise of poor quality and condition.

- ~~ed.~~ That the tree proposed to be removed is obstructing safe vehicular cross visibility.

~~de.~~ That the tree proposed to be removed is too close to an existing structure so as to endanger the structure, or otherwise is creating ongoing safety problems for existing development.

~~ef.~~ That the tree is an invasive tree, as defined in Part 5 (Terms and Uses Defined) of Article 9: Definitions and Interpretation, provided the removal results in the complete removal of the invasive tree.

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D. Tree Relocation

1. Tree Relocation Required

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b. A tree may be relocated to another property upon demonstration that the property on which the trees is located lacks available space for its relocation. A tree may be relocated to public property within the City of Pompano Beach with the concurrence of the City. If relocated to ~~another private~~ property, the site must be publicly accessible and written authorization from the owner of the ~~other receiving~~ property is required.

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4. Tree Relocation Bond Requirement

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c. If a tree is determined to be effectively destroyed within one year from the date of relocation, and no efforts have been made for preservation or replacements, the bond shall be drawn upon and funds will be deposited into the ~~Tree~~ Canopy Trust Fund.

E. Tree Replacement

1. Tree Replacement Required

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b. Required Number of Replacement Trees

i. The minimum number of replacement canopy trees required to compensate for removed non-specimen canopy trees that cannot be successfully relocated shall be one (1) caliper inch for each one (1) DBH inch removed to the extent that the combined ~~DBH caliper~~ of the replacement trees equals the combined ~~caliper~~ DBH of all the trees removed. Replacement trees shall be canopy trees and shall meet the minimum height requirements of Section 155.5203.B.2.g.ii. Large canopy tree species shall be replaced with large canopy tree species. Removal and replanting shall be done at the full expense of the applicant, and submitted as part of an application for a Tree Permit.

ii. The minimum number of replacement palm trees required to compensate for removed non-specimen palm trees that cannot be successfully relocated shall be one (1) foot in height for each one foot in height removed to the extent that the combined height of the replacement palms equals the combined height of all the palms removed. Replacement trees shall be palms or canopy trees and shall meet the minimum height requirements of Section 155.5203.B.2.g.ii. Large canopy palm species shall be replaced with large canopy tree or palm species. Removal and replanting shall be done at the full expense of the applicant, and submitted as part of an application for a Tree Permit.

iii. Replacement of a specimen tree shall be the number of trees whose combined purchase price, as determined by the Development Services Director, equal the dollar value of the removed trees, as determined by an appraisal prepared by an ISA Certified Arborist indicating the species, quantity, size, location, condition, status, and value for each tree proposed to be removed following the methodologies provided with Rule 14-10.057~~in accordance with Rule 14-40.030~~, Florida Administrative Code, as amended, and submitted as part of the application for a Tree Permit.

iv. In lieu of replacement on site due to a lack of planting space, funds may be deposited into the Tree Canopy Trust Fund as detailed in Section 36.033. Funds must be derived based on the average of current market value for same-species of trees removed, at Florida Grade #1 or greater quality, plus a 2.5 multiplier for

installation.

iv. If trees are removed before obtaining authorization for removal through a Tree Permit Application, and the value of the removed trees(s) cannot be determined from any remnants, such value shall be determined by using aerial photography; on-site inspection; and/or review of a tree survey. The number of required replacement trees shall be based upon the size of canopy impacted and the type of replacement trees selected by the applicant and approved by Development Services Director. The canopy of the replacement trees at maturity shall at least equal the canopy removed. The following table shall be used to determine the number of required replacement trees:

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#### G. Tree Abuse

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##### 2. Corrective Measures for Tree Abuse

a. Any person that abuses a tree or any landowner that possesses an abused tree shall be required to take the most appropriate corrective action, as determined by the Development Services Director, including-but not limited to:

i. Undertake pruning and other corrective action determined by the Development Services Director, including-but not limited to the permitted removal of severely abused trees to protect public safety and property, and corrective pruning by an ISA-Certified Arborist to improve the health and form of abused trees the permitted removal of severely abused trees to protect public safety and property;

ii. corrective pruning under the direct supervision of an ASCA Registered Consulting Arborist to restore and improve the safety, health, and structure of abused trees. Corrective pruning must include tree assessments, appraisals, reporting, and restoration plans;

iii. Plant replacement trees in accordance with Section 155.5204.E, Tree Replacement, if the abused tree's natural habit of growth is destroyed; and

iiiv. Make a payment into the city's Tree Canopy Trust Fund or other appropriate fund in accordance with Section H}36.033.

b. Any corrective action(s) undertaken in accordance with this subsection shall be considered partial corrective action(s) required to cure a violation and are in addition to any penalties that may be imposed by the city in accordance with Article 8: Enforcement.

c. A Tree Permit shall be required for any corrective measure undertaken in accordance with this subsection.

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## APPENDIX C: FEE SCHEDULE

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| TYPE OF APPLICATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | FEE |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| ... <u>III. LANDSCAPING.</u> <u>A. Tree Permit</u> <u>\$25 plus \$5 per tree</u> <u>1. Single-Family and Duplex</u> <u>Owner-occupied Ex</u> <u>empt; otherwise \$45 plus \$7 per tree</u> <u>Subsequent Landscape Reviews (per review, after the third review)</u> <u>\$25</u> <u>2.</u> <u>Multi-Family Residential</u> <u>\$45 plus \$7 per tree</u> <u>Subsequent Landscape Reviews (per review, after the third review)</u> <u>\$165</u> <u>3. Non-Residential</u> <u>\$50 plus \$10 per tree</u> <u>Subsequent Landscape Reviews (per review, after the third review)</u> <u>\$220</u> <u>Fee</u> <u>shall double for work done without a permit.</u> <u>B. Tree Abuse</u> <u>1. For each abused tree</u> <u>\$60</u> <u>2. Second incident for</u> <u>each abused tree</u> <u>\$120</u> <u>3. Third incident for each abused tree</u> <u>\$235</u> <u>C. Expired Permit Fee (after 180 days of</u> <u>inactivity)</u> <u>\$80</u> <u>.M. REQUESTS FOR ZONING INFORMATION OR REVIEW</u> <u>.D. Zoning Compliance</u> |     |

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**File #:** LN-523

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**Permit** ☐ ☐ ☐ 4. Expired Permit Fee (after 180 days of inactivity) ~~\$40~~ ☐