

ORDINANCE NO. 08-07

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE BEACH RELATING TO THE LAND DEVELOPMENT REGULATIONS OF THE CITY; AMENDING SECTION 5.01.00 OF THE LAND DEVELOPMENT REGULATIONS TO PROVIDE REGULATIONS RELATING TO THE REMOVAL OF TREES ADOPTING THE ST. AUGUSTINE BEACH TREE AND LANDSCAPE MANUAL; PROVIDING FOR THE REMOVAL OF EXOTIC INVASIVE SPECIES; AMENDING SECTION 5.01.02 TO PROVIDE FOR CONDITIONS FOR THE REMOVAL OF TREES; AMENDING SECTION 5.01.03 TO PROVIDE FOR THE REPLACEMENT OF TREES; PROVIDING FOR THE ISSUANCE OF AFTER THE FACT PERMITS FOR THE REMOVAL OF TREES; ADOPTING THE AMERICAN NATIONAL STANDARDS INSTITUTE PRUNING STANDARDS AND THE AMERICAN NATIONAL STANDARDS INSTITUTE STANDARDS FOR SAFETY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE BEACH, FLORIDA:

Section 1. Section 5.01.01 of the Land Development Regulation of the City be, and the same are hereby amended to read as follow:

Sec. 5.01.01. Removal of trees.

A. It shall be unlawful for any person, organization, or corporation or any agent or representative thereof, directly or indirectly, to cut down, destroy, remove or move, or effectively destroy through damaging any existing appropriate index tree that is six (6) inches or larger in diameter (Diameter breast height, "DBH") without first obtaining a Tree Removal Permit.

B. Removal of a tree includes any act which will cause a tree to die or decline, including but not limited to damage inflicted upon the root system by heavy machinery, changing the natural grade within the dripline of the tree, damage, including fire damage, inflicted on the tree. Loss (removal) of a tree caused by sever decline but not death shall be measured by the loss of thirty-three (33%) percent or more of the canopy and branches during a period up to five years following the damage. Severe pruning resulting in the removal of thirty-three (33%) percent or more of the canopy and branches is also considered removal. Seasonal variation in leaf coverage will be taken into account.

C. No authorization for the removal of a protected tree shall be granted unless the property owner or developer demonstrates the reason for removal of trees and is in accordance with the submitted site plan. All existing index trees designated as remaining in their original placement as a part of the landscape plan shall be protected during construction and land clearing from permanent damage to any part of the tree including roots, trunk and canopy. A property owner or developer

shall follow the guidelines for protecting existing trees during construction and land clearing provided in the Tree and Landscape manual.

D. There is hereby adopted the St. Augustine Beach Tree and Landscape Manual, a copy of which shall be on file in the office of the City Manager and in the office of the Director of Planning and Zoning.

E. . Exotic invasive

Any species of tree or plant defined as a “Category 1” pest plant by the Florida Exotic Pest Plant Council (EPPC) or invasive plant list by the Institute of Food and Agricultural Sciences of the University of Florida shall be removed upon development of the site and cannot be used in the landscaping of the site.

F. any tree removal request, except an individual residential site with an existing residential structure, shall include a site diagram indicating the location of the tree on the site in relation to infrastructure and other trees to be removed and preserved, the size (diameter) of the tree, the condition (health and structure) of the tree, and the genus and species of oak tree not just the genus, for example, not “oak” but “live oak” (*Quercus virginiana*) or “laurel oak” (*Quercus laurifolia*). The tree condition shall be evaluated in writing by an ISA Certified Arborist.

Section 2. Section 5.01.02 of the Land Development Regulations of the City be, and the same is, hereby amended to read as follows:

Sec 5.01.02. Condition for tree removal.

A. The city building official shall issue the permit for removal of a tree if one of the following reasons for removal is found to be present:

1. The tree is diseased, injured, in danger of falling or is endangering existing structures, utility services or creates unsafe vision clearance; or
2. Removal of the trees is necessary to construct proposed improvements in order to comply with a final development order issued pursuant to Section 12.02.04 or 12.02.10 hereof; or
3. The presence of the tree will cause a substantial likelihood of structural damage to a building.
4. The tree is located in an area where a structure or improvement may be placed in accordance with other development provisions in the City Code, and retention of the trees and such that no reasonable economic use can be made of the property without removal of the tree, and the tree cannot be reasonably relocated on or off the property because of its age or size.
5. The tree or tree cluster is less than twenty (20) inches DBH, is located within the primary building pad, primary road line, primary foundation line, swimming pool and swimming pool patio pad, or the portion of the driveway within fifteen (15) feet of the garage or carport entrance and these structures cannot be relocated.
6. It is found to be in the interest of the general public’s health, safety and welfare that the tree or trees be removed.
7. The tree is not one that is designated as a historic tree.

8. The tree is not providing habitat to legislatively designated endangered or protected bird species during nesting season even though the tree meets the criteria of this section.

Section 3. Section 5.01.03 of the Land Development Regulations of the City be, and the same is hereby amended to read as follows:

Sec. 5.01.03. Replacement.

A. Trees removed under the provisions of Sec. 5.01.01, Removal of trees, shall be replaced as follows: One DBH inch for each DBH inch removed or a fee in lieu thereof shall be paid. Replacement trees shall be of a size three (3) inches or greater and shrubs shall follow the American National Standards Institute “ANSI” A300 (PART 6)-2005 Transplanting Standards. Plant materials used in conformance with the provisions of this Code, shall conform to the Standard for Florida No. 1 or better as given in Grades and Standards for Nursery Plants, State of Florida, Department of Agriculture and Consumer Services, Tallahassee. Fees collected in lieu of replacement shall be placed in a fund for a tree bank. Such fees are established as follows:

(1) Individual single-family residential lots:

- a. Five-inch to less than 10-inch DBH, \$25.00 per inch removed.
- b. Ten-inch to less than 20-inch DBH, \$50.00 per inch removed.
- c. Twenty-inch to less than 30-inch DBH, \$75.00 per inch removed.
- d. Thirty-inch and greater DBH, \$100.00 per inch removed.

(2) All other developments:

- a. Four-inch to less than 8-inch DBH, \$50.00 per inch removed.
- b. Eight-inch to less than 15-inch DBH, \$100.00 per inch removed.
- c. Sixteen-inch to less than 24-inch DBH, \$125.00 per inch removed.
- d. Twenty-five-inch and greater DBH, \$150.00 per inch removed.
- e. Where the removed tree is a Sabal palmetto (cabbage Palm or sabal Palm), it shall be replaced by one foot clear trunk of like palm species for each clear trunk foot removed, or by one 3-inch DBH replacement tree for each three or fraction thereof palms removed, or, in lieu of replacement, a fee of \$15.00 per clear trunk foot removed shall be collected. Sabal palms less than five foot clear trunks shall be valued at \$75.00.
- f. Index trees removed illegally without a permit are subject to a three to one replacement, i.e., three inches replacement for each one-inch removed, or fees payable to the tree bank in Sections A(1) (and A(2) above will be tripled.
- g. The City manager, or his or her designee, may waive the requirements for replacement described in this section under one or more of the conditions listed in Sec. 5.01.02. Conditions for tree removal.

B. In respect to removal of trees to allow construction of improvements on property, and as a condition to granting of a permit, replacement, shall be required of only those trees located outside of the footprint of the building and paved driveway or parking areas to be constructed; provided, however, that replacement shall be required of trees located within the footprint of the building and paved driveway or parking area to the extent that the lot or lots for which a permit is sought shall fail to meet the minimum requirements set forth below. The

applicant, however, shall not be required to replace such trees if credits allowed for trees which are preserved meet the following minimum requirements:

1. Minimum six (6) credits for lots of under ten thousand (10,000) square feet in area.
2. Minimum twelve (12) credits for lots of ten (10,000) square feet in area.
3. One (1) additional credit for every one thousand (1,000) square feet in excess of ten thousand (10,000) square feet of lot area.

C. Credit for trees.

1. Trees which are replaced shall received credit against landscape requirements according to the following schedule:

TABLE INSET:

Juvenile Trees: Between one and one-fourth (1 ¼) inches and two (2) inches in caliper at six (6) inches above ground ½ credit.

Small trees: Between two (2) inches and six (6) inches in caliper at six (6) inches above ground 1 credit.

Medium trees: Between six (6) inches and twelve (12) inches in caliper at six (6) inches above ground 2 credits.

2. Trees which are preserved shall receive credit against the landscape requirements according to the following schedule:

TABLE INSET:

Large trees: Greater than twelve (12) inches but less than twenty-four (24) inches DBH 4 credits.

Large trees: Greater than twenty-four (24) inches DBH 5credits.

Medium trees: Between six (6) inches and twelve (12) inches DBH 2 credits.

Small trees: Between two (2) inches and six (6) inches DBH 1 credit.

D. The owner of any lot within the City that does not have at least one (1) index tree in the front setback area as a condition for the issuance of a building permit for any structure on such lot shall be required to plant one (1) index tree no less than three 93) inches DBH. Any tree planted shall be classified as moderately to highly salt tolerant. Recommended species for replacement are found in the Replacement Tree List and Landscape manual. Sec. 5.01.04. Protection of root structure of index and specimen trees.

Section 4. Section 5.01.04 of the Land Development Regulations as amended by the St. Augustine Beach Tree and Landscape Manual is hereby deleted from the Land Development Regulations of the City as, and as amended placed in said St. Augustine Beach Tree and Landscape Manual.

Section 5. The Land Development Regulations of the City be, and the same are, hereby amended by the addition of a new section to be known as Section 5.01.05 to provide for the issuance of after-the-fact permits to read as follows:

Sec. 5.01.05. After-the-fact permits.

A. Any person who shall remove a tree without first having applied for and received a permit therefore as required by Section 5.01.01B. of these Land Development Regulation, shall within thirty (30) days after notice by the building official, apply for and obtain an after-the-fact permit for each tree removed. The fee for each permit shall be five hundred dollars (\$500.00) to off-set the cost to the City of investigation and enforcement of the City's ordinances relating to tree removal and landscaping plus the appropriate fee in lieu of replacement in Sec. 5.01.03 A(1) and A(2). Failure to obtain a permit within thirty (30) days after service of notice, unless stayed as hereafter provided, shall constitute a continuing violation of this Ordinance and shall subject the violator to a fine of up to two hundred fifty dollars (\$250.00) for the first day and five hundred dollars (\$500.00) for each day thereafter, to be levied by the local code enforcement board as authorizes by general law. The determination by the building official that a tree has been removed without a permit may be appealed to the comprehensive planning and zoning board within thirty (30) days after service of the notice.

B. Notice of the requirement to obtain an after-the-fact permit shall be given by the building official to the owner of the property upon which the removed tree shall have been located as shown by the most recent tax rolls of St. Johns County by hand delivery or by certified mail addressed to the owner at the address as shown by such tax rolls. In the event that removal of the tree shall appear to have been done in conjunction with the construction of an improvement for which a building permit has been issued, such notice may be given by certified mail to the owner as shown by the building permit or notice of commencement.

C. An appeal taken within thirty (30) days of the service of the notice given by the building official shall stay the requirements of obtaining an after-the-fact permit until there has been a final determination of the comprehensive planning and zoning board. The planning and zoning board shall only have authority to determine if the after-the-fact permit is required pursuant to the provisions of this section. In the event the comprehensive planning and zoning board shall determine that a permit is required, it may, upon a showing of good cause, make a recommendation to the City Commission that the fee for the after-the-fact permit be reduced. The granting of a reduction of the fee for the after-the-fact permit by the City Commission shall be a matter of legislative grace by the City Commission and not as a matter of right.

D. The issuance of an after-the-fact permit, as herein required, shall not relieve the owner of the property upon which a removed tree shall have been located from the requirement of replacement or compliance with the landscaping provisions of these Land Development Regulations.

Section 6. The Land Development Regulations of the City be, and the same are, hereby amended by the addition of a new section to be known as Section 5.01.06 to provide for standards for pruning and safety to read as follows:

Sec. 5.01.06. Tree maintenance

Pruning standards for all tree work done in the City shall follow American National Standards Institute (ANSI) A300, part 1 “pruning standards” as well as ANSI Z133.1-2000 standards for safety. The owner, tenant and their agents including personnel and companies who do the tree work shall be jointly and severally responsible for following these pruning specifications and responsible for tree damage or loss. No topping cuts or lions-tailing cuts (over-lifting) will be permitted.

Section 7. Effective Date. This Ordinance shall take effect upon final passage.

**CITY COMMISSION OF THE CITY OF
ST. AUGUSTINE BEACH**

ATTEST: _____
City Manager

BY: _____
Mayor-Commissioner

First Reading: April 7, 2008
Second Reading: May 5, 2008