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Nassau County  
Amelia Island Tree Commission (NC-AITC)  
Agenda  
Wednesday, August 2, 2023  
5:00 pm

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1. Call to Order
2. Roll Call
3. Approval of Minutes for the July 5, 2023 NC Amelia Island Tree Commission Meeting
4. Election of Vice-Chair
5. Public Comment for Non-Agenda Items  
Comments can only be for items under the authority of the NC-AITC. Time limit is three (3) minutes.
6. Public Comment for Agenda Items  
Any member of the public can address any item on the agenda now or wait until the matter is addressed. Time limit is three (3) minutes.
7. Tree Ordinance Revisions
8. Next Steps
9. Adjourn



**NASSAU COUNTY AMELIA ISLAND TREE COMMISSION**  
**5:00 PM, July 5, 2023**  
**James S. Page Governmental Complex, 96135 Nassau Place**  
**Yulee, FL 32097**

**OFFICIAL MINUTES**

**Call to Order at 5:01 p.m.**

**Roll Call**

**PRESENT:**

Board Member Steve Sherman, Board Member Karen Klima, and Board Member Lynda Bell

**ABSENT:**

Board Member David Jensen, and Board Member Ron Flick

**ALSO PRESENT:**

Denise May, County Attorney, and Aleina Colón, Deputy Clerk

**Approval of Minutes from the meeting held on June 7, 2023.**

**Motion:** Approve minutes from June 7, 2023.

**Maker:** Board Member Klima

**Second:** Board Member Bell

**Action:** Approve

**Aye:** Board Member Sherman, Board Member Klima, and Board Member Bell.

**Absent:** Board Member Jensen, and Board Member Flick.

**Public Comment:**None.

**Presentation by Dr. Taylor Clem, UF/IFAS Extension, regarding Tree 101.**

**Staff presentation:** Dr. Clem came forward to provide a Tree 101 PowerPoint presentation per the board's request. He gave a brief description of trees and how they impact and benefit the environment. He reviewed the different types of trees and their seeds, photosynthesis, root systems, soil compaction, and the environment. Discussion ensued regarding corrective action for soil compaction. Joe Pitcherale came forward to provide further input regarding soil compaction.

**Presentation by Joe Pitcherale, Nassau County - Urban Forester**

a. **Funding mechanism for the tree planting program** - 05:20:05 p.m.

Mr. Pitcheralle came forward to provide a PowerPoint presentation regarding funding for the tree planting program. He reviewed the primary funding source for the tree program is by penalties and fines collected through reinforcement actions. He stated that the expenditures collected by the Tree Fund are limited to, planting new trees on public lands and private property, performing studies related to urban forestry, canopy protection and natural area assessments, and education and outreach initiatives for canopy preservation and tree loss. He reviewed the next steps and strategies for establishing a tree program. Discussion ensued regarding penalty enforcement and the expenditure of funds.

Public Comment: Early McCall came forward and inquired regarding planting trees in the city limits and soil compaction. Ms. Coyle came forward and advised that the ordinance states that the planting of trees will be on lands within the unincorporated area of the island, which does not include the city limits. Margaret Kirkland came forward and provided comments regarding tree sustainability and the beneficial impacts. Evelyn Pannone came forward and expressed appreciation to the board for their work.

### Approval of Meeting Schedule

Discussion ensued regarding the schedule, quorum and the election of a vice-chair. Ms. May provided clarification and advised that a vice-chair could be elected at the following meeting.

**Motion:** Approve the meeting schedule.  
**Maker:** Board Member Klima  
**Second:** Board Member Bell  
**Action:** Approve  
**Aye:** Board Member Sherman, Board Member Klima, and Board Member Bell.  
**Absent:** Board Member Jensen, and Board Member Flick.

### Next Steps

Ms. Coyle came forward to provide an update regarding the tree ordinance and the next steps. Mr. Pitcheralle came forward and informed the Board that he would be taking the lead on developing strategies and criteria.

### Adjourned at 5:45 p.m.

**Motion:** Approve Adjourn  
**Maker:** Board Member Klima  
**Second:** Board Member Bell  
**Action:** Approve  
**Aye:** Board Member Sherman, Board Member Klima, and Board Member Bell.  
**Absent:** Board Member Jensen, and Board Member Flick.

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Chairman

**ORDINANCE 2023 - \_\_\_\_**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, AMENDING THE FOLLOWING SECTIONS OF THE LAND DEVELOPMENT CODE: SECTION 37.02, UNINCORPORATED AMELIA ISLAND TREE PROTECTION AND REPLACEMENT; AND SECTION 37.08, CANOPY/SCENIC ROADS; PROVIDING FOR FINDINGS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Policy FL.10.05 of the Nassau County Comprehensive Plan requires the County to review existing regulations in the Land Development Code (LDC) and revise as necessary in order to implement the Future Land Use Plan; and

**WHEREAS**, the Nassau County Comprehensive Plan, Policy CS.02.01, states that the “County shall maintain or expand regulations in the Land Development Code that provide for tree protection standards on Amelia Island”; and

**WHEREAS**, the Nassau County Comprehensive Plan, Policy CEV.05.01, states that “Development orders in the coastal planning area shall be designed to protect the type, nature, and function of floodplains, wetlands, waterways, inlets, estuaries, and wildlife habitat that is occupied by endangered or threatened species by limiting encroachment, removal of native vegetation, pollution discharge, dredge and fill, drainage, or other impacts associated with development;” and

**WHEREAS**, Amelia Island is a barrier island on the east coast of Florida that contains a maritime forest - one of the rarest coastal biological communities; and

**WHEREAS**, of the east coast barrier islands, those islands within the Georgia Embayment, Amelia Island being one, have among the most vigorous maritime forest; and

**WHEREAS**, the Amelia Island maritime forest provides communal benefits that are integral to the health, safety and general wellbeing of the Island and the inhabitants thereon; and

**WHEREAS**, those communal benefits that preserve the health, safety and general wellbeing of the inhabitants of Amelia Island include, among others, storm protection, stormwater storage and treatment, soil stabilization and strengthening, and serve to counter heat island effect; and

**WHEREAS**, the communal benefits provided by a mature maritime forest cannot be replicated through new plantings in a reasonable timeframe; and

**WHEREAS**, the Planning and Zoning Board further recognizes that effective tree protection requires the coordination of other design standards such as landscaping, utility infrastructure placement, stormwater management and vehicle parking and thus amendments to other portions of the Land Development Code are necessary; and

**WHEREAS**, the Board of County Commissioners adopted the Unincorporated Amelia Island tree protection and replacement ordinance on August 9, 2021, which went into effect on February 7, 2022; and

**WHEREAS**, the adopted ordinance provided for staff to be non-voting members of the Nassau County Amelia Island Tree Commission (NC-AITC) rather than support for the NC-AITC; and

**WHEREAS**, the adopted ordinance incorrectly addresses funding for the NC-AITC; and

**WHEREAS**, the adopted ordinance includes an obsolete term, the Florida Exotic Pest Plant Council Invasive Plant List, which should be replaced by the most recent invasive species list from the Florida Invasive Species Council; and

**WHEREAS**, the Florida Legislature Senate Bill No. 518 revised language and requirements for the pruning, trimming, or removal of a tree on residential property requiring updates to the adopted ordinance to be compliant with state law; and

**WHEREAS**, Senate Bill No. 518 allows for documentation and review by a Florida licensed landscape architect and the adopted ordinance is updated to reflect that option; and

**WHEREAS**, the adopted ordinance does not properly address the Senate Bill No. 518, which exempts the removal of trees on single-family properties deemed by an arborist to be hazardous to persons or properties; and

**WHEREAS**, the adopted ordinance includes language that exempts thinning in a forested area from tree protection, without defining either of these terms, and is therefore unenforceable and should be eliminated from the list of eligible exemptions from tree protection; and

**WHEREAS**, the adopted ordinance includes an incorrect citation for code language regulating the removal of protected trees; and

**WHEREAS**, the adopted ordinance includes conflicting language that undermines the intent of the tree working group to provide for a partial exemption for replacement of removed protected tree caliper in construction zones and limits of disturbance for new development, and not to allow reducing such tree replacement in areas outside of these zones and limits, with corrective language to clarify this intent; and

**WHEREAS**, implementation of the partial exemption of requiring replacement of twenty-five percent (25 %) of removed protected tree caliper has been ineffective at restoring tree canopy and has revealed a need for greater replacement requirements and tree canopy preservation incentives to more effectively restore lost tree canopy and preserve remaining tree canopy; and

**WHEREAS**, the adopted ordinance merely encourages the use of development techniques that minimize tree impacts, and should require the use of such techniques; and

**WHEREAS**, the adopted ordinance does not require replacement of protected trees as designated by the approved tree protection plan that die over time which has the potential to result in a loss of canopy; and

**WHEREAS**, adopted ordinance language referring to wetland-upland buffers has been revised to be referred to as upland buffers adjacent to wetlands; and

**WHEREAS**, the adopted ordinance provides no limits on the extent of limits of disturbance and therefore no limits on protected tree removal, a revision that clearly defines the area which may be designated as the limits of disturbance and a revision that limits maximum protected tree removal at seventy percent (70 %) of protected tree inches; and

**WHEREAS**, the adopted ordinance does not clearly describe tree health scores for dead and dying trees, and a proposed revision would assign scores to such trees; and

**WHEREAS**, the adopted ordinance does not clearly describe the components required on a tree protection and replacement plan, and a proposed revision distinctly list those requirements; and

**WHEREAS**, the proposed ordinance would preserve existing canopy by requiring that wooded areas be included in the currently mandated minimum pervious surface areas for nonresidential development and creates a new incentive for mitigation credits associated with canopy preservation; and

**WHEREAS**, the adopted ordinance does not have a cap on tree removal, which brings with it the prospect of clear-cutting; and

**WHEREAS**, the proposed ordinance clarifies that dead protected trees along canopy/scenic roads shall be replaced; and

**WHEREAS**, public notice of all hearings required by law has been provided in accordance with Chapters 125 and 163 Florida Statutes and the Nassau County Land Development Code; and

**WHEREAS**, the Board of County Commissioners finds this ordinance serves the health, safety, and welfare of the residents of and visitors to Nassau County, Florida.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA:**

**SECTION 1. FINDINGS**

This Ordinance is consistent with the goals, objectives and policies of the Nassau County Comprehensive Plan, in particular, Policies CEV.05.01 and CS.02.01.

**SECTION 2. Amending Section 37.02 Unincorporated Amelia Island tree protection and replacement as follows:**

- A. Purpose and intent. The purpose of this ~~s~~Section is to provide standards and regulations to ensure a minimum number of trees on any lot or parcel, protect and preserve native tree species, protect and preserve the natural landscape, foster and encourage maintenance of natural vegetation, and minimize loss of trees and overall tree canopy to development within the unincorporated areas of Amelia Island. It is the intent of the board of county commissioners of Nassau County that:
1. A balanced, equitable and practical approach to preserving the Amelia Island tree canopy and fostering the establishment of new trees on Amelia Island be implemented;
  2. Amelia Island is a barrier island on the east coast of Florida that contains a maritime forest - one ~~(H)~~ of the rarest coastal biological communities;
  3. Of the east coast barrier islands those islands within the Georgia Embayment, Amelia Island being one ~~(H)~~, have among the most vigorous maritime forest;
  4. The Amelia Island maritime forest provides communal benefits that are integral to the health, safety and general wellbeing of the island and the inhabitants thereon;
  5. Those communal benefits that preserve the health, safety and general wellbeing of the inhabitants of Amelia Island include, among others, storm protection, stormwater storage and treatment, soil stabilization and strengthening, and serve to counter heat island effect;
  6. The communal benefits provided by a mature maritime forest cannot be replicated through new plantings in a reasonable time frame;
  7. Preservation of ~~the~~ Amelia Island's existing tree canopy is achieved by managing the impact of development and preventing unreasonable or unnecessary damage to the community's existing native tree canopy and vegetative understory;
  8. The diversity of tree species indigenous to Amelia Island shall be maintained;
  9. Existing mature growth native trees important to Amelia Island's tree canopy are protected and maintained to the fullest extent possible;
  10. Structures and all impervious surfaces will be placed in such a way as to protect the survivability and substantial growth of the healthiest canopy trees on the property;

11. The natural environment is preserved, enhanced, and restored through the protection and establishment of native trees and existing natural systems for the enjoyment of present and future populations;
12. Achieving greater energy conservation by maximizing the shading and cooling effects of existing native, healthy trees and native replacement trees;
13. Providing cooling comfort and beauty for public spaces such as parks, rights-of-way and areas adjacent to rights-off-way, sidewalks, and bicycle trails;
14. The unique aesthetic character of Amelia Island is preserved, enhanced, or restored; and
15. All properties located in the unincorporated areas of Amelia Island shall maintain compliance with this article as outlined in LDC Section 37.02(B) unless and until annexation into the City of Fernandina Beach is fully executed at which time any further development action is subject to rules and regulations of the City of Fernandina Beach.

B. *Applicability.*

1. The terms and conditions of LDC sSection 37.02 shall apply to all lands in the unincorporated areas of Amelia Island.
2. Nothing herein shall exempt any property in the unincorporated areas of Amelia Island from or waive any landscaping, minimum tree planting, open space or buffer requirement described in LDC sSections 37.03, 37.05, and/or 37.06, and 37.08 LDC unless explicitly expressed in this Ssection.
3. Any tree protection plan approved by Nassau County prior to February 7, 2022(insert effective date) remains in effect. Nothing herein shall be construed to invalidate a previously approved tree protection plan. However, subsections O, P, Q, R, S, T, U, and S-V in this sSection shall apply to tree protection plans approved by Nassau County prior to February 7, 2022(insert effective date).

C. *Regulatory framework.* The regulations set forth herein establish the following:

1. Creation of an the Nassau County-Amelia Island Tree Commission-Amelia Island Tree Commission;
2. Definition of a pProtected tree;
3. Definition of a Specimen tree;
43. The permissible means by which a protected tree may be removed; and



54. ~~A penalty~~Penalties for violation of this article.

D. *Nassau County-Amelia Island Tree Commission.*

1. There is hereby created an unincorporated Nassau County-Amelia Island Tree Commission (NC-AITC).
2. Appointments. The NC-AITC shall consist of five (5) members to be appointed by the Nassau County Board of County Commissioners. The NC-AITC shall, to the extent practicable, include:
  - a. Five (5) voting members:
    - i. County planning and zoning board representative, recommended by planning and zoning board;
    - ii. A Florida licensed landscape architect;
    - iii. An International Society of Arboriculture (ISA) certified ~~county~~ arborist, ~~either a county employee or contractor~~; and
    - iv. Two (2) lay citizens who must be residents of the unincorporated area of Amelia Island.
  - b. ~~Ex officio non-voting members will~~Staff members shall include:
    - i. A planning department representative appointed by the county manager;
    - ii. A public works department representative as appointed by the county manager;
    - iii. A ~~engineering-development~~ services department representative as appointed by the county manager; and
    - iv. An Institute of Food and Agricultural Sciences (UF-IFAS) representative approved by the county manager.
3. Administration:
  - a. *Terms.* Voting members shall be appointed for three (3) year staggered terms. Any member appointed to the NC-AITC serves at the pleasure of the board of county commissioners.
  - b. *Chair/conduct of business.*

- i. The NC-AITC shall elect a chair and vice-chair each year. No person shall serve more than two (2) consecutive terms as chair or vice-chair.
- ii. The NC-AITC shall meet, ~~at a minimum,~~ monthly at a noticed regular date and time in accordance with Florida public meeting laws.
- iii. Meetings shall be held in accordance with Robert's Rules of Order "simplified," as they may apply.
- iv. The NC-AITC is staffed by the planning department and represented by the county attorney.

4. Powers and duties. The NC-AITC responsibilities are as follows:

- a. Develop, recommend and forward to the board of county commissioners a tree planting program as outlined in subsection M to be updated at a minimum every five (5) years, ~~with a recommendation shall first being reviewed by the county manager and office of management and budget director to determine a financial impact,~~ ~~with the financial impact and recommendation shall be~~ presented to the board of county commissioners by the county manager;

~~b. Review restoration plans as outlined in subsection U;~~

- ~~b.~~ Hear and decide administrative appeals from provisions of this ~~s~~Section as outlined in subsection P;

~~c.~~ The NC-AITC may recommend to the board of county commissioners that:

- i. Periodic surveys of trees and vegetation on the unincorporated area of Amelia Island be conducted;
- ii. A survey and record of significant trees be established and maintained;
- iii. New canopy roads be designated; and
- iv. A heritage tree program be established.

~~e. The above powers and duties, excepting section 32.02.D.4.b and section 32.02.D.c, are subject to the availability of funds as determined by the board of county commissioners. In determining such funding availability, the office of management and budget shall provide to the board a financial impact report.~~

E. *Protected trees and Specimen trees; tree replacement standards.*

- 1. A ~~P~~protected tree is any existing, healthy tree as determined by an ISA certified arborist or Florida licensed landscape architect approved by the board of county

~~commissioners~~ having a caliper of five (5) inch diameter at breast height (DBH) or greater, and not listed as “Category I” or “Category II” on the most recent invasive species list from the Florida Invasive Species Council (FISC) identified on the most recent Florida Exotic Pest Plant Council Invasive Plant list (Category I or II).

2. Specimen trees: Healthy *Quercus virginiana* (southern live oak) and *Quercus geminata* (sand live oak) are integral to the health of a maritime forest and by extension, the health and well-being of Amelia Island. In addition, the live oak is the primary characteristic of Amelia Island's unique aesthetic quality which is critical to economic prosperity of the local tourist industry. Specimen trees are any existing healthy live oak species listed herein as determined by an ISA-certified arborist or Florida licensed landscape architect approved by the board of county commissioners, measuring forty (40) inches or more in diameter at breast height, or, a multi-trunk live oak, as determined by an ISA-certified arborist or Florida licensed landscape architect with an aggregate measurement of sixty (60) inches or more in diameter at breast height. The following standards apply to specimen trees.

~~a. The exemptions and waivers defined in this article do not apply to specimen trees.~~

~~ba.~~ Specimen tree removal shall require a permit from the planning department, except where otherwise exempt.

~~eb.~~ Permit requests for specimen tree removal shall include a written report prepared, signed and notarized by an ISA certified arborist or Florida licensed landscape architect. The report, at a minimum, shall include:

- i. A response to the review criteria for specimen tree removal, and;
- ii. Reports, references and any other supporting documentation necessary to demonstrate the specimen tree meets the criteria for removal; and
- iii. A tree replacement plan meeting the minimum requirements of this ~~s~~Section.

~~ec.~~ The permit request will be considered by the NC-AITC at a public hearing. The NC-AITC shall consider the following in their review of the request to remove a specimen tree. Criteria for specimen tree removal are as follows:

- i. The tree is dead or has fallen, as determined by an ISA-certified arborist or Florida licensed landscape architect, or;
- ii. The health and/or structure is sufficiently compromised, and the tree is deemed to have a high likelihood of failure by an ISA-certified arborist or Florida licensed landscape architect with tree risk assessment credentials, or;
- iii. The application of this ~~s~~Section will remove all economically viable use of the property under review, ~~;~~; or;

iv. The applicant/property owner has demonstrated that no feasible design or development alternative exists that can be implemented that would allow preservation of the specimen tree(s). Such design alternatives would include use of customized architecture (building plans), incorporation of tree(s) into building complex, decrease in building footprint size, boring under tree roots instead of trenching (for utility installation), reduction in impervious surfaces, lesser intense use of the property, relocation or redesign of supporting infrastructure and utilities, and other similar design and development alternatives. ~~or;~~

~~ed.~~ The tree replacement standards associated with the removal of a specimen tree is in addition to all other tree replacement, tree planting and landscaping requirements defined in the LDC.

~~fe.~~ In addition to any other landscape requirement defined in ~~LDC s~~Section 37.05 ~~LDC and/or~~ tree replacement requirements defined in this article, the removal of a specimen tree, based on the above review criteria, shall be mitigated by planting one (1), three (3) inch caliper live oak on-site.

~~gf.~~ The board of county commissioners may set specimen tree removal permit fees by separate resolution.

~~h. — Appeals and waivers are set forth in subsections P and Q of this article~~

F. *Tree removal.* Tree removal permits, processed through the planning department, are required for the removal of any protected tree, except as outlined in ~~LDC s~~Section ~~3237~~.02.F.1.a below. The board of county commissioners may adopt tree removal permit fees by separate resolution. The removal of a tree by any person or entity who fails to meet the standards/procedures in this ~~S~~section will be subject to the penalty and enforcement provisions defined in this article. In the event the removal of a tree(s) in accordance with this Section causes the property to fall beneath the minimum required number of trees per LDC Section 37.05 and/or 37.06, additional trees shall be planted in accordance with the minimum tree planting standards defined in the referenced sections of the LDC. Nassau County shall require a landscape plan be created at the owner's expense demonstrating restoration of the minimum required landscaping.

1. Trees exempt from protection: Permitting and/or replacement exemptions are outlined below. ~~In the event the removal of a tree(s) in accordance with this section causes the property to fall beneath the minimum required number of trees per section 37.05 and/or 37.06 LDC additional trees shall be planted in accordance with the minimum tree planting standards defined in the referenced sections of the LDC. Nassau County shall require a tree replacement plan be created at the owner's expense.~~

a. *Exempt classification 1:* The following categories are exempt from permit, permit fee and replacement requirements:

- i. Pruning, trimming or removal of trees on residential property that ~~present a danger~~pose an unacceptable risk -to persons or property, as determined by documentation from an ISA-certified arborist or a Florida licensed landscape architect, pursuant to Section 163.045, Fla. Statutes, as amended. Replanting or mitigation of a removed tree under this provision is not required. Pruning and trimming shall be performed in compliance with the best practices as provided by the International Society of Arboriculture (ISA). This provision does not apply to action undertaken by the public works department for work in a public right-of-way related to public health and safety matters.
  - ii. Trees and landscaping specifically grown as landscape material for resale by duly approved and licensed plant nurseries and botanical gardens.
  - iii. Storm-damaged or hazardous trees during and for a one (1) month period following a declared weather state of emergency. Declared weather state of emergency shall include all state, federal and local declarations that include Amelia Island.
  - iv. Minor maintenance activities such as removal of sucker growth, water sprouts, and overhanging branches on mature trees. All work shall be performed in compliance with the best practices as provided by the ISA.
  - v. Trimming or removal of trees or limbs by Nassau County or county contractors located within a public right-of-way that has been deemed to represent a clear and immediate threat to the health and well-being of the general public as determined by the county engineer.
  - vi. Major and minor maintenance of trees located adjacent to utility lines when performed by the utility provider.
  - vii. Fallen trees.
- b. *Exempt classification 2:* The following require a tree removal permit and documentation in the form of a notarized letter by an ISA-certified arborist or Florida licensed landscape architect at the property owner's expense as part of the permit application, ~~but~~ Tree protection and replacement plans ~~and replacement~~ and tree removal permit fees shall be waived for this category:
- i. Nonresidential protected trees damaged by disease, fire, windstorm, lightning, insect infestation or other acts of nature, which pose an imminent danger to life, property or other protected trees;
  - ~~ii. Removal of trees (thinning) within a forested area in order to reduce overcrowding and competition and to promote the health, growth, and resistance to stress may be permitted;~~

~~iii~~. Removal of trees by Nassau County within Nassau County rights-of-way except as exempted in LDC Ssection 37.02.F.1.a.v; and

~~iv~~iii. Removal for emergency purposes outside the provision found in LDC Ssection 37.02.F.1.a.iii wherein the tree poses an imminent threat to the health, safety and welfare of persons or public or private property (not applicable to circumstances outlined in LDC Ssection F.1.a.i above).

2. Protected trees removed as part of new development:

- a. The term construction zone, as used in this article and found in article 32, shall have the following meaning: the impervious, semi-impervious area of development including related infrastructure, utilities, stormwater management facilities and the lands within six (6) feet thereof.
- b. The term limits of disturbance, as used in this article and found in LDC Aarticle 32 ~~LDC~~ shall have the following meaning: A-a boundary denoting the maximum extent of any development activity. Development activity includes, but is not limited to, storage of material or equipment, access roads, haul roads, excavation, grading, deposit of fill material or aggregate, site work, erection of a structure, placement of construction trailers, placement of dumpsters, installation of utilities, operation of heavy equipment, or any other development related activity. Areas outside the limits of disturbance are not to be impacted by development activity. For the purposes of tree protection and replacement regulations contained herein, the limits of disturbance shown on a tree protection and replacement plan shall not encompass portions of a site on which development activity is not proposed.
- c. The term new development, as used in this article and found in article 32, shall have the following meaning: Any new construction or site work whether residential, non-residential or mixed-use, any modification, expansion, redevelopment or alteration to an existing structure, alteration to any site including borrow pit construction, site grading, driveways or other similar activity, any new or expanded accessory use or structure including a -- shed, pool, parking area, means of ingress/egress, drainage facility, pond, etc., and/or any other aspect of site or structural development or modification that may adversely impact existing trees.
- d. As part of new development, a protected tree may be removed subject to the following removal requirements:

Type of Development:	Removal requirements:
Individual one- and two-family residential lots/building sites	Replacement of <del>thirty-three</del> <u>twenty-five</u> (33 <del>25</del> ) percent of the total caliper inches of the protected trees located within the construction zone and limits of disturbance shall be required.  Protected trees located outside the construction zone and limits

	<p>of disturbance shall not be removed except as in conformance with <del>s</del>Section 37.02.FE. of this article. No exemption for replacement inches shall be given for the removal of protected trees located outside the construction zone and limits of disturbance. See example in Figure 37--1.</p> <p>Specimen trees: Notwithstanding the above, in no case shall a specimen tree be removed except as in accordance with <del>s</del>Section 37.02.E.2. of this article.</p> <p><u>Pursuant to Section 163.045, Fla. Statutes, as amended, replacement of a removed tree under this provision is not required when said tree Pruning, trimming or removal of trees on residential property that present a dangerposes an unacceptable risk to persons or property, as determined by documentation from an ISA-certified arborist or a Florida licensed landscape architect., Replanting of a removed tree under this provision is not required.</u></p>
<p>New residential subdivisions</p>	<p>Replacement of <del>thirty-three twenty-five (3325)</del> percent of the total caliper inches of the protected trees located within the construction zone and limits of disturbance shall be required. The construction zone and limits of disturbance <u>are defined in this article and</u> includes proposed new rights-of-ways/streets/alleys, club houses or amenity centers or, within any active recreation areas, utility areas, golf courses, stormwater management facilities or other similar components of development outside individual lots. <del>shall be exempt from replacement.</del></p> <p>Protected trees located outside the construction zone and limits of disturbance shall not be removed except as in conformance with <del>s</del>Section 37.02.FE. of this article. No exemption for replacement inches shall be given for the removal of protected trees located outside of the above referenced construction zone and limits of disturbance, including in commonly held open space, vegetative natural buffers, <del>uncomplimentary incompatible</del> use buffers, upland buffers (wetland buffers), or passive recreation areas. Individual lots will be reviewed independently for preservation and, if needed, mitigation at the time a development permit is requested for the individual lot.</p> <p>To provide for improved habitat, trees shall be preserved in groves and groupings, when possible.</p> <p>Specimen trees: a specimen tree shall not be removed except as in accordance with <del>s</del>Section 37.02 E.2. of this article.</p>

<p>Multi-family residential, non-residential and mixed-use</p>	<p>Replacement of <del>thirty-three-twenty-five (3325)</del> percent of the total caliper inches of the protected trees located within the construction zone, including stormwater management and utility areas, and within the limits of disturbance shall be <del>exempt from replacement</del><u>required</u>.</p> <p>Protected trees located outside the construction zone and limits of disturbance shall not be removed except as in conformance with <del>s</del>Section 37.02.<del>FE</del>. of this article. No exemption for required replacement inches shall be given for the removal of protected trees located outside of the above referenced improvements, in commonly held open space, vegetative natural buffers, upland buffers (wetland buffers), uncomplimentary use buffers, or passive recreation areas.</p> <p>To provide for improved habitat, trees shall be preserved in groves and groupings, when possible.</p> <p>Specimen trees: a specimen tree shall not be removed except as in conformance with <del>s</del>Section 37.02.E.<del>2</del>. of this article.</p>
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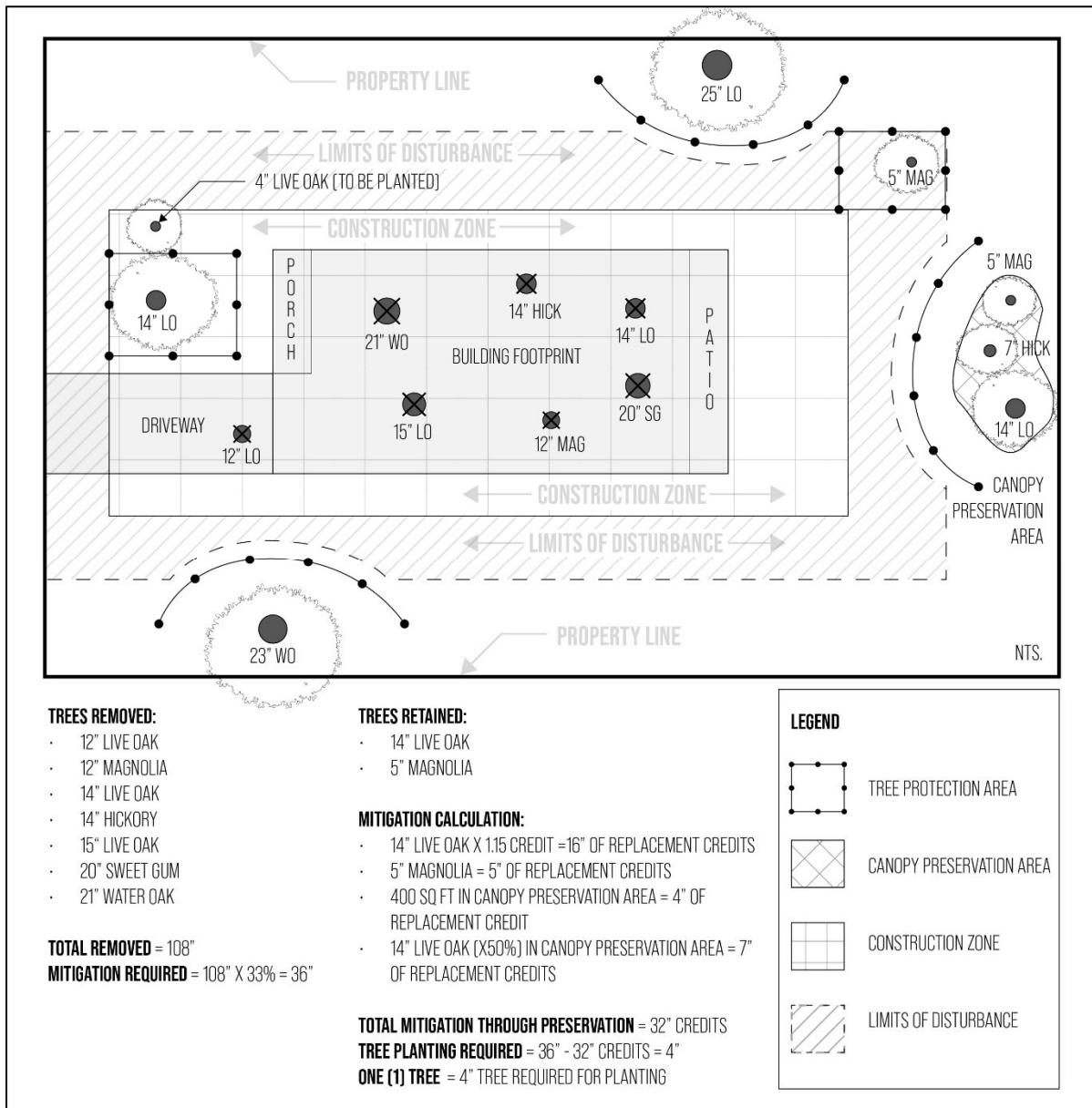


Figure 37-1: Tree Mitigation Example

- No protected tree located within a required perimeter landscape area, as defined in [LDC sSection 37.05.D.](#), adjacent to a public or private right-of-way or street shall be removed except to provide site access where no other viable option exists. Any tree meeting this requirement shall be identified as part of the tree protection and replacement plan and be assessed for health by an ISA-certified arborist [or Florida licensed landscape architect.](#)
- It is encouraged that as part of the development program the naturally occurring groundcover and understory be maintained. However, the removal of underbrush and removal of trees which are less than five (5) inches DBH is allowed [except as](#)

otherwise stated herein. Removal of native underbrush within a tree protection zone shall be minimized and be consistent with the methodologies defined in this article. A minimum of seventy-five (75) percent of the native underbrush within a tree protection zone shall be preserved.

5. Credit shall not be given for the preservation of protected trees located in jurisdictional wetlands, required upland wetland buffers, required natural perimeter landscape strips, or required incompatible use buffers. ~~or required upland buffers/ or vegetative natural buffers.~~
6. When, based on the determination of an ISA-certified arborist or Florida licensed landscape architect, a parcel of land, due to size constraints and existing topographical features, cannot support the number of trees required to be planted as part of the replacement standards as defined herein, a property owner, at their expense, may elect to plant trees of a caliper size greater than that required by LDC Sections 37.05 and 37.06 to fulfill replacement requirements. In such a case, a 6-inch canopy tree planted within a perimeter landscape strip may count toward one required perimeter landscape strip canopy tree and three (3) caliper inches of tree replacement. A property owner may also plant the portion of the requisite trees that cannot be supported on the specific parcel of land within a Tree Bank Exchange Area (TBEA) as stipulated in LDC Section 37.02.L on other lands on Amelia Island subject to approval by the NC-AITC. The receiving entity shall be responsible for the tree(s) survival. If any replacement tree does not survive it shall be the responsibility of receiving entity to replace the tree(s).
7. ~~It is encouraged, and in some cases may be required, to~~ Developments shall utilize low impact development principles including methods such as; or other techniques such as stem-wall construction, tree wells ~~and others,~~ retaining walls, grade beams, stormwater pond bulkheads, avoidance of unnecessary fill or grading, limiting of on-site staging material, and equipment storage in order to preserve protected trees. All developments shall demonstrate use of at least one method of a low impact development technique when the removal of protected trees is proposed.
8. For the health of existing and new trees, proposed fill for green space in new developments shall be limited to the minimum amount necessary to provide positive drainage flow and to abide by any applicable floodplain protection and/or state and local regulations. Native soil shall be stockpiled and re-spread during final site grading. Any imported topsoil required shall be similar to the existing soil in pH, texture, permeability, and other characteristics.
9. As mature protected trees die over time, property owners of nonresidential sites must plant additional trees to replace protected trees on the site. Replacement shall be in the form of a 3-inch caliper canopy species that is the same or similar to the species that is being replaced.

10. Development plans shall maximize tree preservation by incorporating tree protection measures and employing low impact development (LID) principles in the design of the site. Sites containing at least seventy-five (75) percent area that is forested or in an otherwise natural, undisturbed state shall not remove more than seventy (70) percent of protected trees. If existing conditions on a site are such that the limited number of protected trees would render the site unbuildable due to the strict application of this provision, then reduction beyond the minimum preservation requirement prescribed herein may be approved by the NC-AITC upon application for removal.

11. Wood-logging and harvesting, reuse of lumber, chipping, and/or shredding are preferred methods of removal of vegetation removed as part of new development. On-site burning of vegetation removed as part of new development is discouraged.

G. *Required documentation for tree removal related to new development.*

1. Class I development:

- a. When considering a request to facilitate new development that does not require review by the development review committee (DRC), the tree protection and replacement plan shall be submitted at the time the request is made. As an example, the addition of a pool to an existing single-family residential lot does not require approval by the DRC; however, the improvement meets the definition of new development per this article and thus requires a tree protection and replacement plan and is subject to the ~~75/25~~ thirty-three percent (33 %) replacement rule as defined in Ssection 37.02.F.2 of this article. The planning department will review said protection and replacement plan and either approve, approve with conditions or deny for-cause the submitted plan based on the standards defined in Ssections 37.02.G, H, I, J, K, N, and O of this article. The planning department will provide a written assessment of the plan notifying the applicant of the review findings if approved with conditions or is denied for-cause. No development permit (~~this includes including~~ building permits, site work permits, borrow pit permits, right-of-way permit, driveway permits, or any similar permit) will be issued until the tree protection and replacement plan is approved by the planning department. A review fee will be set by separate resolution of the board of county commissioners ~~and as may be~~ amended from time-to-time ~~as necessary~~.

2. Class II, III, and IV development:

- a. When reviewing a project requiring a preliminary binding site plan, site plan, or ~~subdivision plan~~ preliminary plat reviewed by the development review committee, the tree protection and replacement plan shall be required as part of the review and be included within preliminary binding site plan, site plan, or ~~subdivision plan~~ preliminary plat documents.

- b. When reviewing a project requiring a site engineering plan (SEP) reviewed by the development review committee, but not any of the items listed in 'a'-LDC Section 37.02 G.2.a. above, the tree protection and replacement plan shall be required as part of the review included within site engineering plan documents.
  - c. When reviewing a project requiring a preliminary development plan (PDP, new or modified) the tree protection and replacement plan shall be required as part of the review included within preliminary development plan documents.
  - d. When reviewing a project requiring a final development plan (FDP) that has a previously approved preliminary development plan, the tree protection and replacement plan shall be required as part of the review included within final development plan documents. A project that requires a final development plan (FDP) but does not require preliminary development plan approval shall submit a tree protection and replacement plan with the final development plan documents required for review.
  - e. All revision sheets must be dated and revision history noted in the title block.
3. The following information is required for all tree protection and replacement plans:
- a. A completed tree inventory. This includes a graphical representation and worksheet in an application provided by the planning department.
  - b. A tree survey/inventory. When the request involves removal of three (3) or fewer trees, the ~~inventory/survey~~survey/inventory does not need to be certified by an ISA-certified arborist or Florida licensed landscape architect, but must contain all requisite information defined in this article. When the application is requesting the removal of four (4) or more trees, the ~~inventory/survey~~survey/inventory shall be certified by an ISA-certified arborist or Florida licensed landscape architect. ~~The planning department shall make this determination.~~
  - c. In all cases, the tree survey/inventory shall be drawn to scale and include the following:
    - i. Location of all trees, identifying their species using botanical species nomenclature (i.e. Quercus virginiana = Qv), size at DBH, tree protection zones and related barricades. The placement of tree barricades shall be in accordance with LDC sSection 37.02.N.5-e and shall be field adjusted and verified for compliance.
    - ii. Illustration and text outlining tree protection methods as per LDC sSection 37.02.N.
    - iii. All protected trees, including specimen trees, within the project boundary, abutting rights-of-way and easements shall be noted.

- iv. Location, including footprint, of all proposed and existing structures and other existing and planned improvements including utilities and stormwater management facilities.
- v. All existing and proposed impervious and semi-impervious surfaces.
- vi. Construction zone boundary.
- vii. The limits of disturbance.
- viii. Property boundaries and any abutting streets identified by name.
- ix. Location of all points of ingress and egress, existing and planned utilities including private well and onsite sewage treatment and disposal systems (septic tank and drain field). If overhead utilities are located adjacent to the subject property, the location of said utilities must be shown.
- x. Indication of trees to be retained, trees to be removed, and diseased trees. Include this information on a chart identifying all existing protected trees by #, DBH size, tree health score on a scale of one to five (with one being healthy and five being dead or dying), retention status, whether the tree is inside or outside the construction zone or limits of disturbance, comments and any other information deemed necessary to calculate preservation inches and mitigation inches required. Trees scoring a four or five in tree health shall not be counted as protected trees. These findings may be independently verified by the County via an ISA-certified arborist or Florida licensed landscape architect.
- xi. Calculation of total DBH of trees inside the ~~construction zone~~limits of disturbance including the; total DBH of trees to be removed and the total DBH of trees to be retained; ~~the applicable~~twenty-five (25) percentage of retention DBHmitigation to be provided; applicable preservation credits; and the total DBH of trees to be planted on the site. those within the limits of disturbance (if appropriate) and mitigation inches required.
- xii. Proposed grade changes.
- xiii. Jurisdictional wetland and related vegetative natural buffers (upland buffers) boundaries. Showing the location of protected trees in these areas is not required.
- xiv. Supporting documentation from ISA-certified arborist or Florida licensed landscape architect related to encroachments into the tree protection zone detailing mitigation strategies to address development impacts to protected trees as referenced in LDC s~~Section~~ 37.02.N.5.~~b~~.

xv. No survey or tree inventory shall be more than two (2) years old.

4. Nassau County reserves the right to have a third-party ISA-certified arborist or Florida licensed landscape architect review any request for tree removal. The cost of the review ~~by the arborist~~ shall be the responsibility of the applicant and paid prior to the approval of a permit.
5. Unless exempted in subsections 37.02.F.1.a or b. of this article, a tree protection and replacement plan shall be submitted and certified by an ISA-certified arborist or Florida licensed landscape architect showing the location and specification of all replacement trees pursuant to and consistent with the tree replacement and relocation standards in LDC Ssection 37.02.E.
6. All tree protection and replacement plans requiring certification by an ISA-certified arborist or Florida licensed landscape architect and all restoration plans shall include the following applicable notarized signature block.

I, \_\_\_\_\_, am a certified arborist through the International Society of Arboriculture and my certification number is \_\_\_\_\_. I hereby attest that I have prepared this tree protection and replacement plan and/or restoration plan. This includes not only the evaluation of individual trees but also review of the complete construction plan set and the techniques that will be utilized to mitigate impacts to protected trees. Further, I attest that best practices, as supported by the International Society of Arboriculture, are being implemented to avoid and mitigate impacts to protected trees.

Print Name: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

I, \_\_\_\_\_, am a licensed landscape architect through the State of Florida Department of Business and Professional Regulation, and my license number is \_\_\_\_\_. I hereby attest that I have prepared this tree protection and replacement plan and/or restoration plan. This includes not only the evaluation of individual trees but also review of the complete construction plan set and the techniques that will be utilized to mitigate impacts to protected trees. Further, I attest that best practices, as supported by the American Society of Landscape Architects, are being implemented to avoid and mitigate impacts to protected trees.

Print Name: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

7. ~~The tree preservation~~ protection and replacement plan or restoration plan shall be re-signed by the arborist or landscape architect with any tree protection and replacement~~preservation~~ plan or restoration plan resubmission.

H. *Supplemental parking requirements for the unincorporated areas of Amelia Island.*  
Supplemental parking requirements for Amelia Island were adopted to promote tree preservation. See ~~LDC S~~section 31.14 ~~of the LDC~~: Supplemental parking requirements for the unincorporated areas of Amelia Island.

I. *Replacement trees requirements.*

1. When authorization has been granted to remove protected trees, replacement trees shall be planted as applicable. The combined caliper inches of replacement and preserved trees shall at a minimum equal the combined DBH of trees authorized for removal subject to any applicable partial exemption defined in ~~LDC s~~Section 37.02.F.2 and tree preservation credit as defined in ~~LDC s~~Section 37.02.K. Replacement trees shall in all cases be in addition to the minimum requirements of LDC Sections 37.03, 37.05, 37.06, and 37.08 except as allowed by LDC Section 37.02.F.6.
2. For specimen trees, see ~~S~~section 37.02.E.2. of this article. In addition to the tree replacement requirements defined in this article, ~~T~~the approved removal of a specimen tree shall be mitigated with the planting of one (1), three (3) caliper inch live oak. ~~No T~~tree preservation credits ~~nor~~ landscape requirements as defined in ~~LDC S~~section 37.05 ~~LDC~~ may be utilized to off-set this requirement. This requirement is in addition to all other landscaping, tree planting and replacement requirements. Preservation credits are not applicable for removal of specimen trees to ensure that for each specimen live oak which is removed, one (1) live oak is planted.
3. ~~A R~~replacement trees shall be a canopy tree indigenous to the specific habitat type of the site and meet the standards set forth in ~~LDC S~~section 37.05.B ~~LDC~~ and shall measure three (3) caliper inches or more at the time of planting, be balled and/or burlapped or container-grown. A grouping of three cabbage palms (Sabal palmetto), each with a clear trunk height of at least four (4) feet, will be permitted to count as one three (3)-inch canopy tree for tree replacement purposes, but in no case shall the number of cabbage palms consist of more than ten (10) percent of replacement species. In order to prevent a monoculture, replacement trees shall not include more than forty (40) percent of any one (1) genus or twenty (20) percent of any one (1) species. Within the coastal strand as defined by LDC Section 37.04, replacement trees measuring a minimum of one (1)-inch caliper at planting will be permitted if credible justification is provided by an ISA-certified arborist or Florida licensed landscape architect demonstrating that specific sized trees are not available due to the limited availability of species indigenous to the specific habitat type of the site.
4. Replacement trees can include relocated trees from within the site, with the approval of an ISA-certified arborist or Florida licensed landscape architect and also on-site supervision of the relocation by an arborist.
5. Replacement trees shall be maintained and warranted to survive for a period of one (1) year from installation. Trees which do not survive in good condition as determined by an ISA-certified arborist or Florida licensed landscape architect for one (1) year must

be replaced with new trees meeting the size requirements defined herein at the property owner's expense. Replacement trees shall comply with the same maintenance and replacement warranty as the original replacement tree(s) and the warranty period will restart at the date of planting.

6. All replacement trees shall be irrigated.

J. *Nassau County Tree Fund/fee in-lieu.*

1. The board of county commissioners shall create a restricted Nassau County ~~unincorporated Amelia Island~~ Tree Fund. The fee schedule will be set by the board of county commissioners. The fee amount will be based on the following:

The planning department will survey at least three (3) retail nurseries located in Northeast Florida, with at least one (1) nursery being located in Nassau County, to obtain the cost to plant a three (3) caliper inch live oak. The three (3) quotes will be averaged to arrive at total cost. The total cost will be divided by three (3) to derive the cost per inch replacement fee.

2. The following criteria shall be provided to the nurseries for arriving at a quote:

a. *Transport and installation:* Shall include transport and installation. For calculating travel distance for delivery, it will be assumed the tree will be planted at the intersection of Fletcher Avenue and First Coast Highway— a centralized location on Amelia Island.

b. *Warranty:* The quote shall include a twelve (12) month warranty.

c. *Irrigation:* The cost to provide a tree watering bag and fill/maintain said ~~gator~~ watering bag as necessary for a period of not less than six (6) months. If a nursery is unable to provide a cost for irrigation, then Nassau County may provide an estimate of the cost to irrigate the tree.

d. *Material grade:* Grade #1 or better according to the current edition of "Grades and Standards for Nursery plants" published by the Florida Department of Agriculture and Consumer Services, Division of Plant Industry.

3. The fee will be adjusted by resolution from time-to-time as deemed necessary by the Nassau County Board of County Commissioners.

4. The expenditure of monies collected by the Nassau County Tree Fund are limited for the following purposes within ~~the Nassau County unincorporated areas of Amelia Island~~ and shall be expended by the ~~b~~Board of ~~e~~County ~~e~~Commissioners based on recommendations from the NC-AITC:



- a. Planting of new trees in ~~the unincorporated areas of Amelia Island~~ Nassau County either on public lands or on private property in accordance with the Amelia Nassau County Tree Planting Program in LDC Ssection 37.02.M;
  - b. Performing studies related to urban forestry, canopy protection, and assessments of natural areas;
  - c. Education and outreach initiatives primarily focused on preserving the native canopy, impacts of tree loss, and the value of natural, regenerating areas; ~~and~~
  - d. The development of grant applications; and-
  - e. Replacement of trees necessitating removal associated with improvements performed by the County within a designated canopy/scenic road.
5. An applicant shall be permitted to pay a fee to the ~~unincorporated~~ Nassau County Tree Fund for up to fifty (50) percent of the required replacement inches (caliper).
  6. Payment into the Nassau County Tree Fund shall only be acceptable for tree replacement requirements and shall not be utilized to off-set any minimum landscaping requirements defined in article 37.05 LDC.
  7. Penalty and fine money collected as part of enforcement action: Any financial penalties or fines collected by Nassau County related to violation of this article shall be placed in the ~~unincorporated Amelia Island~~ Nassau County Tree Fund for use as defined in ~~subs~~Section 37.02.J.4 of this article.

K. *Preservation credits.*

1. All new development as defined in this ordinance is eligible to receive individual tree preservation and/or canopy preservation credits.
2. ~~On-site r~~Retention of individual protected trees within the construction zone and limits of disturbance shall receive the benefit of tree preservation credits to reduce the overall tree replacement requirements. Retained protected trees equal to or exceeding five (5) inches DBH shall receive credit in the amount equal to the preserved DBH inches of the tree toward total tree replacement requirements. Trees equal to or exceeding 12 inches DBH shall receive credit as follows:
  - Trees equaling 12"—24" (DBH) shall receive a 115% credit
  - Trees equaling 24.1"—38" (DBH) shall receive a 125% credit
  - Trees equaling 38.1" or greater (DBH) shall receive a 150% credit

- a. In order to qualify for on-site tree preservation credits, each tree proposed for retention must be evaluated by an ISA-certified arborist or Florida licensed landscape architect to ensure that the tree is healthy, with a tree health score less than four, and proper mitigation techniques will be implemented to ensure the long-term viability of the tree(s) in the post development environment.
  - b. These credits shall only be applied towards tree replacement requirements created by the removal of protected trees as set forth in LDC Ssection 37.02.F. ~~These credits may be transferred only on unified multiple lot developments pursuant to sections 37.02.L.~~
  - c. Preservation credits for the total DBH of protected trees retained on the site will be applied during the review of the tree protection and replacement plan.
  - d. Tree credits cannot be applied to minimum landscaping requirements defined in LDC Ssection 37.05 ~~of the LDC~~.
  - e. Trees equal to or exceeding five (5) inches DBH which provide for enhanced public shade for sidewalks, streets, parks, and other public space shall receive a one hundred fifteen (115) percent credit for each tree.
- ~~3.~~ f. Existing trees located within easements may be eligible to receive preservation credits provided the improvements within the easement do not adversely impact the protected trees. In addition, the easement holder shall provide written acknowledgement of the protected status of the trees and affirm activities within the easement will not adversely impact long-term survivability. For example, a tree located in an electrical utility easement that contains or will contain overhead electrical lines will not be eligible to receive credits. In the alternative, where a tree is located in an electrical easement where the electrical lines will be installed via directional bore (installed underground) under the consultation of an ISA-certified arborist or Florida licensed landscape architect then preservation credits are appropriate if correspondence is received from the easement holder acknowledging the tree's protected status and affirms that activity in the easement will not adversely impact the tree's survivability.
- g. Individual protected trees equal to or exceeding five (5) inches DBH outside of the delineated limits of disturbance that are contained within preserved canopy areas utilized for canopy preservation credits as described in LDC Section 37.02.K.3 shall only be eligible for credit equaling 50 percent of the DBH of the individual tree regardless of size.
3. Canopy preservation credits shall be permitted within the limits of the parcel or within a site controlled by a unified development program as follows:
- a. Canopy shall be defined as three (3) or more native trees having a caliper of five (5) inch diameter at breast height (DBH) or greater with canopies that are within five (5) feet of each other. Preserved canopy areas shall not include trees listed as

“Category I” or “Category II” on the most recent invasive species list from the Florida Invasive Species Council (FISC).

- b. Canopy preservation shall be credited at a rate of one hundred (100) square feet per tree dbh-inch of replacement inches required.
- c. Preserved canopy area shall be calculated by adding together the contiguous area occupied by existing, healthy trees and tree clusters as determined by an ISA certified arborist or Florida licensed landscape architect. The entire area within tree clusters shall be considered within the canopy area calculation, and the outer boundary of this area shall be delineated by the outer dripline formed by the collective area of tree crown.
- d. The preservation of native vegetation shall be in addition to any required landscaping or preservation required by the LDC. Credit shall not be given for the preservation of canopy located in jurisdictional wetlands, required upland wetland buffers, required natural perimeter landscape strips, or required incompatible use buffer plantings.
- e. Removal of native understory shrubbery and ground cover shall be prohibited within a preserved canopy area. Hand trimming of understory shrubbery and ground cover is permitted.
- f. Preserved canopy areas may contain pervious passive recreational areas, trails, and paths as long as these areas will not cause damage to the tree protection zone (TPZ) as determined by an ISA certified arborist or Florida licensed landscape architect.
- g. Preserved canopy calculations and delineation of the preserved canopy areas shall be provided on the tree protection and replacement plan.
- h. All required tree canopy areas shall be preserved in perpetuity in a recorded plat condition and associated declaration of covenants or in an executed conservation easement recorded in the official records of Nassau County, Florida.

- L. *Tree bank exchange area.* A tree bank exchange area (TBEA) may be established in order to meet minimum replacement requirements related to new development. The purpose of the bank is to prevent over planting on individual lots/tracts, to establish new shade trees in proximity to the removal location, and to provide flexibility and incentives for open space preservation. A tree bank exchange area (TBEA) is an area or several areas of land located internal to a development under unified development program which are dedicated as open space for new tree plantings. The use of a TBEA allows for trees to be planted within the identified area to satisfy required replacement inches necessitated by the removal of trees for new development. The TBEA cannot be used to fulfill minimum landscape requirements for an individual site as defined in LDC Sections 37.05 and 37.06-LDC. A TBEA may be established at the same time as consideration of a preliminary binding site plan/~~subdivision~~

~~plan preliminary plat~~, site engineering plan, or preliminary development plan ~~or by the development review committee thereafter~~.

A TBEA must meet the following minimum standards and limitations:

- a. A TBEA shall be designated on the site engineering plan and plat or other similar means approved by the development review committee.
- b. Provide a note in the adoption and dedication block on the plat defining to whom the bank is dedicated and the intended purpose, or in the alternative, provide adequate documentation to the development review committee to meet the same intent.
- c. A TBEA shall be described in the covenants and restrictions of the community/development and define maintenance responsibility.
- d. A TBEA may only serve to receive trees from lands within the same development which is subject to a unified development program.
- e. Replacement trees shall only be allowed to be transferred to the TBEA. Replacement trees cannot be transferred from an individual lot to another individual lot unless otherwise approved by the ~~planning and zoning board~~ NC-AITC.

M. *Nassau County Tree Planting Program.*

1. The NC-AITC may recommend to the board of county commissioners ~~an unincorporated Nassau County Amelia Island~~ Tree Planting Program. If approved, the program shall be evaluated and updated at a minimum every five (5) years. Any recommendation as to a tree planting program shall have a financial impact assessment approved by the county office of management and budget and county manager and provided to the board of county commissioners.
2. At a minimum, the tree planting program shall include, but is not limited to:
  - a. As a priority, strategies for planting trees on publicly-held lands in Nassau County with a particular emphasis on the unincorporated area of Amelia Island, including rights-of-ways and lands owned or controlled by Nassau County and the Nassau County School Board; and
  - b. Strategies for working with private property owners to plant trees ~~on the unincorporated area of Amelia Island~~ in Nassau County, including the possibility of partnerships using funds from the Nassau County Tree Fund.
3. Strategies for public and private planting programs must be developed in public meetings of the NC-AITC, establish a process, and have clear criteria for site selection

and the use of funds. It is not intended that this program would offset any required landscape or tree replacement obligations of private property owners due to tree removal.

N. *Protection of trees during development activities.*

1. Protective measures are required during site development in order to assure the health and survival of protected trees. Storage of construction materials or fill dirt is expressly prohibited within the tree protection zone.

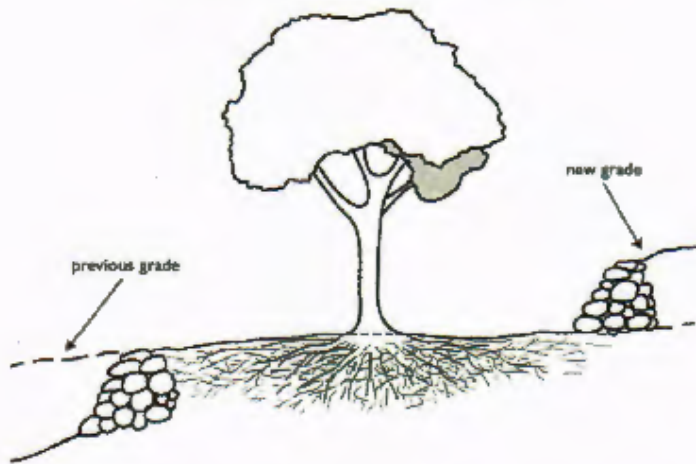
Protective measures are required to avoid mechanical injuries to roots, trunk, and branches, injuries by chemical poisoning, grade changes, excavations, root compression, and new impervious surfaces.

2. To provide conformity between projects, avoid confusion and assist field inspectors, enforcement agents, site construction works and others, the following color-coding system for tree ribbons and in the creation of tree protection and replacement plans shall be used.

- a. Pink—"Do Not Cut" protected tree to be preserved.
- b. White—Used for tree survey purposes only.

3. It is the intent of this article to ~~encourage~~ require the utilization of low impact development principles to reduce the number of protected trees removed as part of new development and lessen the impact of new development on preserved trees and associated habitat. Significant grade changes should be avoided to the maximum extent possible. ~~Stem wall construction is strongly encouraged. When grade change is unavoidable, techniques shall be used to avoid.~~ The placement of fill over the tree protection zone is prohibited. ~~It is encouraged that as part of the development program~~ the naturally occurring groundcover and understory shall be preserved as required in LDC Section 37.02. ~~be maintained.~~

## GRADE CHANGE GUIDELINES



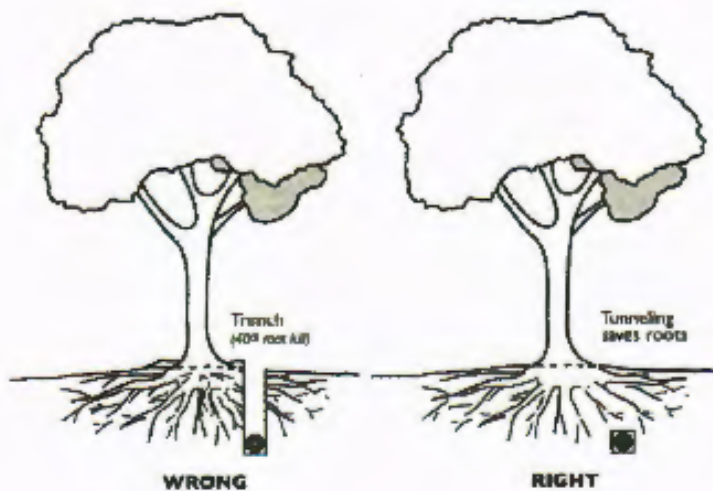
### **MAINTAIN EXISTING GRADE AROUND TREE**

Protect tree roots by creating terraces with retaining walls. This will allow the original grade around the root zone to be maintained. Cutting or shaving roots or piling soil on top of roots to create a continuous new grade will slowly kill the tree. Look out for drainage changes that could mean a tree gets too much water or not enough.

Figure 37-2: Maintain Existing Grade

4. The extension of utilities shall be underground and utilize directional boring (tunneling) and avoid protected trees. Utility areas shall be denoted on all tree protection and replacement plans/site plans.

## TUNNELING UNDER ROOT ZONE



### AVOID SEVERING ROOTS

Install utility lines around tree roots or tunnel under the root zone. Trenching kills all the roots outside the trench line. Posts and supporting beams can be substituted for footing and walls where proposed foundations conflict with tree roots.

Figure 37-3: Proper Utility Line Installation

5. A tree protection zone shall be established around each protected tree(s) as follows:
  - a. At a minimum, the tree protection zone (TPZ) shall be defined as a circular area around a protected tree with a radius equal to six (6) times the diameter of the trunk of the protected tree at breast height. In no case shall a tree protection zone be less than seventy-two (72) inches. As an example, a protected tree with a DBH of fifty (50) inches will have a tree protection zone with a radius of three-hundred (300) inches. A protected tree with a DBH of eight (8) inches will have a tree protection zone of seventy-two (72) inches. Reference [LDC sSections 37.02.N.5.d and 37.02.N.5.e](#) for deviations [related to the in TPZ-encroachments](#).
  - ~~b. Encroachment into the TPZ is allowed only with the written findings from an ISA-certified arborist that such encroachment shall not harm the health of the tree. These findings shall be independently verified by the county's arborist.~~
  - ~~b. e.~~ Prior to commencement of construction, all trees shall be marked with the appropriate color ribbon as defined in [LDC sSection 37.02.N.2](#) and the tree protection zone shall be enclosed via the installation of the tree protection barricade. The tree protection barricade shall be at least three (3) feet tall, shall include two (2) by four (4) vertical supportive posts placed at a maximum of eight (8) feet apart, and shall include a two (2) by four (4) top rail. [A top rail is not](#)

required when posts are placed four (4) feet apart. In this case, posts may be constructed of wood or steel. Wood posts must be a minimum of two (2) inches by four (4) inches. Allowable fence types include wood picket, temporary wire mesh, or other barrier that effectively limits access to the protected area. The barricade must be soundly constructed and remain in place through the duration of construction activities.

- i. On-site placement of posts for the barricades shall be shown on the DRC approved site plan as approved by an ISA-certified arborist or Florida licensed landscape architect to protect the health of the tree(s).
- ii. An alternative ~~The~~ material ~~utilized~~ for the barricade may be ~~altered~~ approved by the ~~planning and zoning board~~ NC-AITC upon receipt of a written request of the applicant. The decision to grant the alternative material shall be based on the following:
  - a) Peculiar topographical or environmental characteristics of the site that are not applicable to other lands.
  - b) The proposed alternative is superior to minimum requirements as determined by an ISA-certified arborist or Florida licensed landscape architect.
  - c) Financial impacts on the applicant shall not be considered by the board in making a determination.

~~c. d.~~ Trenching or excavation within the tree protection zone of a tree intended for preservation must be done by directional boring/tunneling.

d. Encroachment into the TPZ is allowed only with the written findings from an ISA-certified arborist or Florida licensed landscape architect that such encroachment will not harm the health of the tree. These findings may be independently verified by the County via an ISA-certified arborist or Florida licensed landscape architect.

e. A reduction of up to fifty (50) percent from minimum size requirements of the tree protection zone may be approved by the Planning Director upon a determination that the strict application of the minimum size requirement will result in the unnecessary destruction of protected trees which can otherwise be preserved through application of best management practices. Further A deviation from the minimum size requirements of the tree protection zone may be granted by the NC-AITC if the strict application of this rule will result in the unnecessary destruction of protected trees which can otherwise be preserved through application of best management practices. Any reduction or deviation herein permitted shall require ~~Consultation~~ with an ISA-certified arborist or Florida licensed landscape architect ~~is required~~ to determine proper mitigation measures



to ensure protection of the tree during construction activities. The plan shall be prepared and certified by an ISA-certified arborist or Florida licensed landscape architect and include sufficient detail to clearly define the process and protective measures proposed. This plan shall be submitted to the planning department as part of the request to commence new development. The county reserves the right to impose upon the applicant the minimum fee necessary to cover the expense of having a third-party ISA-certified arborist or Florida licensed landscape architect review the submittal.

- f. If upon inspection by the code enforcement department it is determined that a tree protection barricade has not been properly maintained or improperly located, a stop work order may be issued. The stop work order may not be lifted until all barricades have been re-established in accordance with this ordinance, verified by an ISA-certified arborist or Florida licensed landscape architect and any resulting corrective action has been completed.
- g. During construction it shall be the responsibility of the developer to monitor the water needs of protected trees.
- h. A ~~sixtwelve~~ (612) square foot sign shall be displayed in the TPZ marking the TPZ.

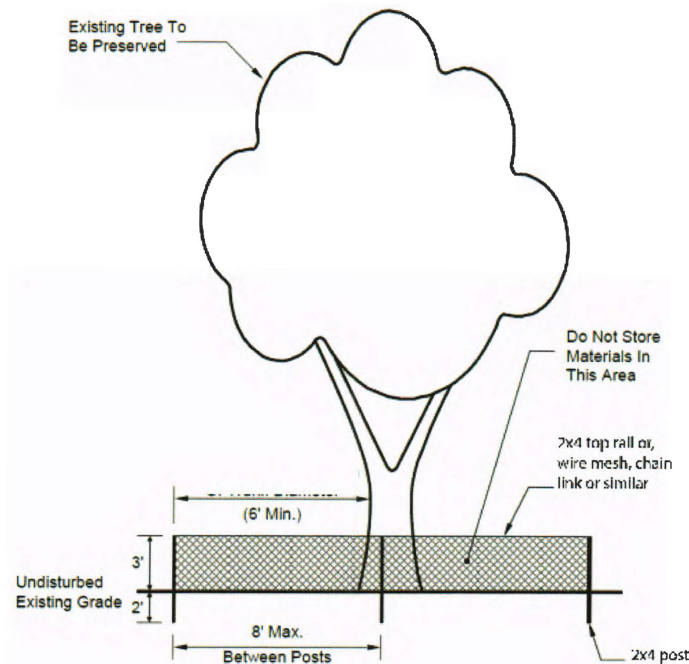


Figure 37-4

- 6. All development activities, except those specifically permitted by LDC sSection 37.02.N.7, shall be prohibited within the tree protection zone, including any construction of buildings, structures, paving surfaces, stormwater retention or detention

ponds, and temporary construction activities, including all digging, storage of construction material, mechanical clearing of underbrush and/or parking of construction vehicles.

7. Permitted activities within the tree protection zone:
    - a. Excavating by utility service providers for installation of underground utilities. Underground utilities shall be placed away from the base of the tree to the maximum extent possible. When trenching or excavation within the tree protection zone of a tree intended for preservation is deemed necessary by the county engineer, all trenching and excavating shall be done by directional boring/tunneling. The county engineer shall not consider the financial implications of boring/tunneling in making a determination.
    - b. Placement of ground covers such as mulch, pine straw, pine bark, or naturally occurring groundcovers found in the same natural community, and the non-mechanical preparation of the ground surface for such covers.
    - c. Hand trimming of underbrush.
  8. The root systems of protected trees shall be preserved when installing fences and walls. Postholes and trenches located close to trees shall be dug and adjusted as necessary to avoid damage to major roots. Continuous footers for masonry walls shall be ended at the point larger roots are encountered and the roots bridged.
  9. No person shall attach any signs to a protected tree, nor shall any person cause any substance harmful to protected trees to come in contact with ~~them~~ those trees or prevent water or oxygen from reaching their roots by excessive cut and fill activities.
  10. The planning director reserves the right to have a third-party ISA-certified arborist or Florida licensed landscape architect review any submitted permit and/or back-up data and make site visits as deemed necessary by the third-party ISA-certified arborist or Florida licensed landscape architect. The cost of the third-party review will be passed to the applicant.
- O. *Abused trees.* Abused trees shall not be counted toward fulfilling tree replacement or preservation requirements. Nassau County may require the abused trees to be replaced and are subject to penalties provided for in this article. A tree may be considered abused if one (1) or more the following actions have taken place.
1. Damage that threatens the long-term survivability, as determined by an ISA-certified arborist or Florida licensed landscape architect, has been inflicted upon any part of a tree, including the root system by machinery, storage of materials, soil compaction, excavation, vehicle accidents, chemical application, or change to the natural grade.
  2. Damage inflicted to or cutting upon a tree which causes infection or pest infestation.

3. Pruning any tree to permanently reduce the function of the tree or cause it to go into shock.
4. Hat-racking/topping.
5. Pruning more than thirty (30) percent of the canopy of a shade tree.
6. Removal of bark which is detrimental to the tree.
7. Tears and splitting of limb ends or peeling and stripping of bark.
8. Use of climbing spikes, or cutting into the tree for the purposes of climbing on any species of tree for any purpose other than total removal, except as the same may be required to comply with federal, state or local laws and regulations, including, but not limited to, the Occupational Safety and Health Act.
9. Girdling a tree with the use of wires (e.g., use of weed eater, mower damage, or improper cabling around branches).

P. *Appeals.*

1. It is the intent of this article that all questions of interpretation shall be appealed to the ~~county planning and zoning board~~ NC-AITC in accordance with section 3.04 of [the LDC], as amended. The director of planning, in conjunction with the ~~county~~ County ISA-certified arborist ~~or Florida licensed landscape architect~~, shall render the initial interpretation.
2. An application for appeal shall be ~~presented in accordance with section 3.04(B)(7) of the LDC to the planning and zoning board on matters of interpretation available from the planning department.~~

Q. *Waivers.*

1. Waivers shall be heard by the NC-AITC under the following parameters.
  - a. The NC-AITC may consider unique development scenarios that result in the preservation of significant natural areas and demonstrates tree protection in a holistic manner - preservation of an intact natural community. ~~This provision is not intended to waive the preservation or replacement requirements defined in this article but rather address characteristics of development such as reducing building setbacks, reducing the building footprint by increasing building height, reducing required parking, use of low impact development principles as recommended by the county engineer.~~

- b. A request for consideration of a waiver permitted in Section 37.02 from the NC-AITC shall be submitted in writing ~~to the planning department~~ on forms provided by the planning department. The waiver request shall include the following:
  - i. Narrative describing the request. The narrative shall describe the unique development scenario and provide specific detail as to how the waiver results in a superior development proposal as it relates to a holistic view of tree protection that could not otherwise be achieved without the waiver.
  - ii. Site plan of sufficient detail to adequately review and make a professional recommendation to the NC-AITC. At a minimum, the site plan shall meet the standards for a preliminary binding site plan as defined in LDC sSection 5.07 ~~of the LDC~~. Additional data may be requested by county staff or county retained ISA-certified arborist or Florida licensed landscape architect.
  - iii. Tree preservation and replacement plan meeting the minimum requirements defined in this article.
- c. The criteria the NC-AITC shall consider to approve, approve with conditions or deny the request for waiver are as follows:
  - i. The written recommendation of the development review committee including any conditions of approval or reasons for denial.
    - a) The criteria the development review committee will use in making a recommendation is as follows:
      - 1) The proposal is not in contradiction with other established regulations and standards such as the Florida Building Code, National Fire Protection Association's Code, Standards and Manual on Uniform Traffic Control Devices, ~~and~~ International Society of Arboriculture Standards, or American Society of Landscape Architects.
      - 2) The proposal does not pose a public health and/or safety concern.
      - 3) Consider any finding or report made by the county retained ISA-certified arborist or Florida licensed landscape architect if utilized by the county to review the proposal.
      - 4) The financial implications on the applicant shall not be considered.
    - ii. The county's ISA-certified arborist's report and comments.

- iii. The applicant has demonstrated to the NC-AITC that the requested waiver will allow for a design that enhances the tree protection and replacement efforts and addresses tree preservation in a holistic manner, i.e. protection of ground cover and understory, preserving swaths of natural area capable of regenerating naturally.
  - iv. The development cannot otherwise be realized through the strict application of the ~~development~~ regulations ~~of Nassau County contained in this Section~~ and, the use of low impact development principles or other techniques result in preservation of larger areas of natural landscapes and tree protection.
  - v. Financial implications on the developer, applicant and/or property owner shall not be a determining factor in the issuance of a waiver.
- d. For criteria for specimen tree removal, see LDC sSection 37.02.E.2.e.
2. The NC-AITC shall, after receipt of a request for waiver, and review by planning staff and county ISA-certified arborist or Florida licensed landscape architect, ~~shall~~ review said waiver in the following manner.
- a. Schedule a hearing ~~within thirty (30) days of for the next available meeting of the NC-AITC upon~~ receipt of a complete application.
  - b. The hearing shall be noticed on the county website and advertised in a newspaper qualifying pursuant to state statute. The advertisement shall run at least seven (7) calendar days prior to the hearing. The applicant shall be responsible for any costs and for providing proof of publication.
  - c. The hearing shall be a quasi-judicial hearing and any decision shall be based on competent substantial evidence.
  - d. The NC-AITC shall issue a final written decision at the conclusion of the hearing.
  - e. The county's quasi-judicial hearing procedures shall be applicable.
  - f. Any applicant may appeal a decision of the NC-AITC to the Circuit Court Board of County Commissioners in Nassau County, Florida. Said appeal ~~shall to~~ be filed no later than thirty (30) days after ~~the date~~ rendition -of the written decision by the NC-AITC.
  - g. Any applicant may appeal a decision of the Board of County Commissioners to the Circuit Court in Nassau County, Florida. Said appeal to be filed no later than thirty (30) days after rendition of the written decision by the Board of County Commissioners.
3. Administrative waiver.

- a. The planning director, or designee, may issue an administrative waiver ~~to for~~ ~~reducing the principal~~ building setbacks ~~and/or increasing building height~~ by up to ~~twenty-five (25)~~ percent and ~~alter to reduce the~~ minimum ~~perimeter~~ ~~incompatible use~~ landscape buffer ~~width~~ requirements ~~by up to twenty-five (25)~~ percent, provided the ~~intent screening requirements~~ of the buffer ~~are is~~ maintained, and the alteration results in the preservation of additional protected trees, at minimum to provide tree protection in accordance with ~~LDC s~~Section 37.02.NQ-1.e.ii. The administrative waiver provisions herein described shall not apply where the development site abuts a property containing an existing single-family or two-family residence.
- b. A request for consideration of a waiver from the planning director, or designee, shall be submitted in writing to the planning department. The waiver request shall include the following.
  - i. Narrative describing the request. The narrative shall describe the unique development scenario and provide specific detail as to how the waiver results in a superior development proposal as it relates to a holistic view of tree protection that could not otherwise be achieved without the waiver.
  - ii. Site plan of sufficient detail to adequately review and make a professional determination. At a minimum, the site plan shall meet the standards for a preliminary binding site plan as defined in ~~LDC s~~Section 5.07-~~of the LDC~~. Additional data may be requested by county staff or county commissioned third-party reviewers.
  - iii. Tree ~~preservation-protection~~ and replacement plan meeting the minimum requirements defined in this article.
- c. The criteria by which the planning director, or designee, will base their decision to approve, approve with conditions or deny the request for waiver are as follows:
  - i. The planning director, or designee, may consult, with the development review committee and seek recommendations including any conditions of approval or reasons for denial. The DRC will use the following criteria in making a recommendation:
    - a) The proposal is not in contradiction ~~{with}~~ other established regulations and standards such as the Florida Building Code, National Fire Protection Association's Codes and Standards, Manual on Uniform Traffic Control Devices, ~~and~~ International Society of Arboriculture Standards, or American Society of Landscape Architects.
    - b) The proposal does not pose a public health and/or safety concern.

- c) Consider any finding or report made by the county retained ISA-certified arborist or Florida licensed landscape architect if utilized by the county to review the proposal.
      - d) The financial implications on the applicant shall not be considered.
    - ii. The applicant has demonstrated to the planning director, or designee, that the requested waiver will allow for a design that enhances the tree protection and replacement efforts and addresses tree preservation in a holistic manner, i.e. protection of ground cover and understory, preserving swaths of natural area capable of regenerating naturally.
    - iii. The development program cannot otherwise be realized through the strict application of the development regulations and, the use of low impact development principles or other techniques result in greater preservation of natural areas and tree protection.
  - 4. Nassau County reserves the right to request a third-party review by an ISA-certified arborist or Florida licensed landscape architect of any data submitted as part of a request for waiver. The cost of the third-party review will be paid by the applicant.
  - 5. A fee for the processing of a waiver request shall be set by separate resolution of the board of county commissioners and amended from time to time as appropriate.
- R. *Review fee.* By separate resolution of the board of county commissioners a fee shall be established for the review of tree protection and replacement plans for new development and restoration plans in the unincorporated areas of Amelia Island. For after-the-fact review of tree protection and replacement and/or restoration plans the review fee shall be four (4) times the amount.
- S. *Administration and enforcement.*
- 1. The planning department shall administer the provisions of these regulations. The code enforcement department shall enforce the provisions of these regulations. A code enforcement officer shall have the authority, pursuant to this ~~s~~Section, to provide notice of violation(s) and citations for violations to the property owner and/or contractor, site work company, individual or engineer via hand-delivery and notation of date and time of delivery and/or a certified letter from the code enforcement division. The code enforcement board or special magistrate, based on procedures as set forth in chapter 1, article III ~~[of the Nassau county County Code of Ordinances]~~, as amended, shall hear the case. Suspended permits may be reinstated after tree protection measures are brought into conformance with an approved tree protection and replacement plan and/or restoration plan and any fines and code enforcement penalties (if applicable) are addressed.

2. ~~When, a~~ After an investigation by the code enforcement division and upon determination ~~of by~~ the code enforcement officer that a violation exists, a stop work order may be issued. A stop work order on a specific parcel may be issued by the building official or designee, code enforcement officer, county engineer or designee, county ISA-certified arborist, or county manager. As determined necessary by the county manager or designee, a stop work order may be applied to site work, infrastructure installation, vertical construction, or any other development/building activity. The stop work order may not be lifted until all fines/review fees (as applicable) have been paid, a restoration plan approved (as applicable) and any required bond (as applicable) has been secured and approved to form by the county attorney.
  3. ~~The property owner and contractor, or person(s) who performed the tree removal, may be held jointly liable. Violations not cured will be set for hearing before the Code Enforcement Board or Special Magistrate. A certified copy of an order finding a violation and imposing fines may be recorded in the public records, and thereafter shall constitute a lien against the land on which the violation exists.~~
- T. *Penalties.* Penalties shall be in accordance with the requirements set forth in chapter 1, article III of [~~the Nassau county County~~ Code of Ordinances] and the specific penalties for violation of tree protection measures defined in LDC Ssection 37.02.U~~of [this article]~~. Each violation of this article is deemed a separate and distinct offense.
- U. *Specific penalties for violation of tree protection measures.*
1. If the code enforcement board or special magistrate has determined that the removal or abuse, as defined in this article, of a protected tree(s) has taken place in violation of this ordinance, a restoration plan shall be prepared by an ISA-certified arborist or Florida licensed landscape architect and submitted to the code enforcement board or special magistrate for review within thirty (30) days of the ~~code enforcement board~~ finding that a violation has occurred. The consideration of the plan will be pursuant to a public hearing before the code enforcement board or special magistrate. The alleged violator, upon receipt of a code enforcement citation, prior to the public hearing before a finding of a violation by the code enforcement board or special magistrate, may submit a restoration (mitigation plan) to the planning department for review based on the requirements set forth herein. At a minimum, the owner and/or developer shall replace, ~~inch for inch at a rate of~~ one (1) caliper inch for every one (1) inch of DBH removed, any and all protected trees that are removed without authorization. The restoration plan shall include all the requirements of a tree protection and replacement plan, including an irrigation plan and maintenance plan. The restoration plan shall also include a schedule for implementation. If the site of the violation cannot sustain the quantity of trees required for mitigation as determined by the County ISA-certified arborist or Florida licensed landscape architect, the violator shall pay into the Nassau County Tree Fund to cover the portion of required mitigation inches or plant a portion of the required inches into a tree bank exchange area (TBEA). Any mitigation by planting or payment shall be in addition to penalties provided by the code enforcement



board or special magistrate pursuant to chapter 1, article III of the Nassau County Code of Ordinances.

2. The planning department shall review the plan, with the assistance of a county designated ISA-certified arborist or Florida licensed landscape architect and provide comments to the code enforcement board or special magistrate. The comments are to be submitted prior to the code enforcement board or special magistrate public hearing and copies provided to the violator.
3. No preservation credits shall be applicable to offset the unauthorized removal of trees.
4. The determination of inches (DBH) removed shall be based on measuring the diameter of the remaining stump. If the remaining portion of the stump is less than four and one-half (4½) feet tall the measurement shall be based on the diameter of the remaining portion of the stump.
5. In the event that an insufficient trunk of the removed tree exists to determine replacement requirements, these facts shall be determined by a county designated ISA-certified arborist or Florida licensed landscape architect based upon any available information, including photographs, aerial imagery or a survey of trees of the same species existing in the general vicinity of the removed tree or trees found in the same natural community.
6. In evaluating a proposed restoration plan, the code enforcement board or special magistrate may consider the following:
  - a. The cross-sectional area of trunk(s) removed;
  - b. The specific aesthetic character of the tree removed;
  - c. Any special function the tree carried out as a screen or buffer;
  - d. Amount of other trees preserved on the site, and the opportunities for planting additional trees;
  - e. The ability to plant trees or restore natural areas on other property; and
  - f. Any short-term or long-term negative environmental impacts from the unauthorized tree removal, including, but not limited to, erosion, siltation, impacts on listed plant and/or animal species, water circulation patterns, water quality standards, and floodplain capacity or conveyance (including, but not limited to, swales or overland sheet flow, where pertinent).
7. Prior to review by the code enforcement board or special magistrate, a county-retained ISA-certified arborist or Florida licensed landscape architect shall review the restoration (mitigation) plan and provide a report and recommendation for

consideration. The owner, ~~developer and/or contractor~~ shall be responsible for the cost of the county retained ISA-arborist, including the cost to appear at a hearing or continuation of a hearing. Said cost shall be paid prior to issuance of a permit.

8. Bond: The code enforcement board or special magistrate may require a bond be acquired to insure the performance and completion of a restoration plan, and/or the maintenance and survival of the implemented restoration plan. If a bond is required, the bond amount shall be the cost to fully implement the approved restoration plan plus a twenty-five (25) percent contingency. The cost estimate shall be provided ~~on a form created by the county attorney~~ and shall include ~~require~~ supporting documentation.
  9. Withholding approvals: No further county permits, site plan approvals or the functional equivalent for the subject property or parcel shall be issued or inspections provided until all violations of this article are corrected or a restoration plan has been approved by the code enforcement board or special magistrate. No certificate of occupancy shall be granted unless and until the restoration plan is implemented or a performance bond satisfactory to the county ~~and its attorney~~ is submitted and approved by the county.
  10. The removal of a healthy specimen tree not meeting the criteria defined in ~~sub~~Section 37.02.-E.2 of this article, the removal of a healthy specimen tree without a permit, or the damage of a healthy specimen tree which kills or will more likely than not cause the tree to die shall warrant the assessment of a penalty of up to fifteen thousand dollars (\$15,000.00), as determined appropriate by the code enforcement board or special magistrate to be irreparable or irreversible in nature, pursuant to ~~s~~Sections 37.02.T and U of this article, in addition to meeting the restoration requirements defined herein.
- V. Conflict. In the event that any section of these regulations is found to be in conflict with any other county code, ordinances or regulation, the more restrictive shall apply.
- W. Severability. It is the intent of the board of county commissioners, and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this Section is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this sSection.

### **SECTION 3. Amending Section 37.08 Canopy/Scenic Roads as follows:**

- A. *Designation.* The board of county commissioners may designate roads or portion of said roads as scenic/canopy roads, by ordinance, based upon criteria set forth herein and with recommendation of the NC-AITC. The ~~growth management~~planning department may recommend, based upon the criteria, that roads or portion of said roads be considered, or a petition of the lesser of either of fifty-one (51) percent or two hundred (200) of the property owners abutting the road may request that a road be considered. Said petition shall be

submitted to the ~~growth management~~planning department for review and comment, and a report made to the ~~NC-AITC and the~~ board of county commissioners. The criteria shall include: (1) historic significance; (2) scenic criteria (including tree canopy); (3) ecological significance; (4) length and current width; (5) land use map designation; (6) zoning of the property within the area; (7) traffic information.

The planning director, or his/her designee, shall insure that the trees are identified and recorded on the proposed roadway and zone, and present the information to the board of county commissioners for its approval. The identification and recordation shall be in a form that can be attached to an ordinance.

The board of county commissioners shall designate said road by adoption of an ordinance. Said ordinance shall reference the exact method by which the trees were identified and recorded. Said information may be attached to the ordinance, when possible, or stored by the ~~growth management~~planning department. Any ordinance proposing to designate a roadway shall be considered by the ~~planning and zoning board~~NC-AITC after mailed, published and posted public notice. The ~~planning and zoning board~~NC-AITC shall conduct a public hearing and make recommendations to the board of county commissioners. The board of county commissioners shall consider the recommendations pursuant to the procedural requirements of this Land Development Code. Mailed notice shall be provided at least twenty (20) days prior to the public hearing.

B. *Restrictions on scenic/canopy roads.*

1. The county shall not widen or increase the number of lanes on any of the county roads designated as scenic/canopy roads.
2. Outdoor advertising signs shall be prohibited, except signs advertising residential developments or homes for sale or parcels of property immediately adjacent to the road or subdivision and entryway signs constructed in accordance with the county sign ordinance. On-premises commercial signs, excluding billboards, shall be allowed.
3. The erection of markers or signage indicating that the road is a scenic/canopy road or historic road shall only be accomplished at the direction of the ~~growth management coordinator~~planning director or his/her designee with the consent of the board of county commissioners.
4. Setting and posting of speed limits and warning of restricted roadway shoulders is permitted.
5. Setting of classes of vehicular travel, including weight and height limitations is permitted.
6. Limiting access and width of access is permitted.

7. Tree protection. No trees, except as identified in Florida's Most Invasive Species List, Category I, which have attained a diameter of eight (8) inches or more at a point four and one-half (4½) feet above average ground level within the zone shall be removed, except as provided herein, and trees shall be identified as set forth herein.

C. *Scenic/canopy road zone.* The zone should be established by the board of county commissioners after recommendation of the NC-AITC. The zone shall include the right-of-way as established by the ~~growth management~~planning department and may include additional area of uniform width along the roadway based upon the zoning classification, including setback requirements, trees as depicted on the survey, and location of existing structures. The owners adjacent to the road shall be notified by certified mail by the planning department at least twenty (20) days prior to the consideration of the zone by the NC-AITC. The zone shall be set forth in the proposed ordinance and included on the notification to adjacent property owners, sent pursuant to section 25-61(e). No development shall occur within the approved zone of the canopy road without the express approval of the board of county commissioners and a request for development shall be submitted to the ~~growth management coordinator~~planning director or his/her designee, and the ~~coordinator~~planning director or his/her designee shall provide a recommendation to the board of county commissioners. Said recommendation may contain conditions, and the recommendations shall be placed on the board's agenda and the procedures utilized for public hearing as set forth herein.

D. *Criteria for tree removal.*

1. The ~~public works director~~ County Engineer or designee may authorize, after consultation with the County ISA-certified arborist, without the approval of the NC-AITC and board of county commissioners, the removal of trees in the public ROW which pose a safety hazard to pedestrians or other persons, buildings, or other property, or vehicular traffic, or which threatens to cause disruption of public services. Any hazardous trees, including diseased or pest infested trees, shall be verified as dead and/or in need of immediate attention by the County ISA-certified arborist, Florida licensed landscape architect-IFAS extension service arborist, or by other ISA-certified arborist. If a hazardous condition can be resolved by trimming, only the County ISA-certified arborist, Florida licensed landscape architect, IFAS extension service ~~arborist agent~~ or other ISA-certified arborist shall identify specific portions of the trees to be trimmed.
2. Upon application for permit for removal of a tree within the zone, ~~the~~ growth management coordinatorplanning director or his/her designee shall provide a recommendation approval to the NC-AITC board of county commissioners of a permit for removal of a tree within the zone if the applicant demonstrates the presence of with written findings relating to the following conditions. ~~one (1) or more of the following conditions:~~
  - (a) *Good forestry and environmental practices.* Necessity to reduce competition between trees and deter the spread of invasive non-native plant and tree species.

- (b) *Reasonable and permissible use of property.* Tree removal which is essential for reasonable and permissible use of essential improvements, resulting from:
- (1) Need for access immediately around the proposed structure for essential construction equipment, limited to a maximum width of twenty (20) feet from the structure.
  - (2) Limited access to the building site essential for reasonable use of construction equipment.
  - (3) Essential grade changes. Essential grade changes those grade changes needed to implement safety standards common to standard engineering or architectural practices, and reference to a text where such standards are found shall be required.
  - (4) Location of driveways, buildings, or other permanent improvements. Driveway aisles shall be consistent with other applicable standards.
3. Upon recommendation of the NC-AITC, the board of county commissioners shall approve or deny a permit request, and said request shall be considered at a regularly scheduled meeting of the board of county commissioners. ~~Notice shall be provided to property owners within the zone in the same manner as set forth in section 25-63. Mailed notice shall be provided to property owners within the zone at least twenty (20) days prior to the public hearing.~~
4. The individual(s) requesting the permit shall pay an application fee of one hundred fifty dollars (\$150.00) and shall be responsible for notifying the property owners, and the cost of the advertisement(s).
- E. *Removal of any tree or trees.* The ~~board of county commissioners~~ NC-AITC, when approving removal of any tree or trees within the zone, shall direct the ~~growth management coordinator~~ planning director or his/her designee to amend the identification of the trees, updating and showing the location of the trees permissibly removed, and including the location of any mitigation trees arising from or in connection with a tree removal and shall be so indicated in the minutes of the next regularly scheduled board meeting. No liability or fine shall be levied for trees removed from within the zone if the identification is not maintained current within thirty (30) days of amending action by the board of county commissioners.
- F. *Removal applications.*
1. *Required information.* All permits for removal or relocation of trees, or for pruning management, within the canopy road tree protection zone, ~~unless such activity is permitted under an approved general permit, shall be obtained by making application to the planning director or his/her designee. Permit forms shall be promulgated by the~~

~~growth management coordinator~~planning director or his/her designee and approved by the board of county commissioners.

2. *Mitigation requirements.* The permit application for removal of trees or vegetation in the canopy road tree protection zone must be accompanied by a mitigation plan which shall include, at a minimum, the following:
  - a. An analysis documenting the purpose that necessitates the tree removal and explaining why the project cannot be modified to avoid the need for tree removal.
  - b. An analysis of the canopy road section to be impacted by the proposed activity within the canopy road tree protection zone. The analysis shall include a narrative description of the affected roadway section together with other material helpful in assessing the impact of the intrusion of the existing canopy road effect. Such characteristics as under-brush density and species composition, tree species and size distribution, high bank areas, and capacity shall be included as appropriate.
  - c. A replanting and management plan designed to mitigate the visual and vegetation impacts.
  - d. Replacement of dead, dying, or unhealthy trees on a tree-per-tree basis.
  - e. Replacement of healthy trees at the required replacement ratio of one (1) inch replaced for every one (1) inch DBH removed.
3. *Inspection.* Prior to determination on a permit application, the growth management coordinator or his/her designee, shall conduct an on-site inspection.
4. *Appeal.* Any permit that is denied may be appealed to the ~~board of county commissioners~~Circuit Court within thirty (30) days of the date of ~~denial by filing a request with the clerk of the court's office~~ rendition of the written decision of the Board of County Commissioners.
- G. *Traffic safety regarding canopy road designation.* Traffic safety on the designated canopy road shall be promoted by the utilization of speed control devices and by limiting truck traffic to local delivery trucks and setting speed limits. The ~~engineering services director~~County Engineer or his designee shall provide speed control devices and signage restrictions as deemed necessary.
- H. *Traffic directional signs.* The ~~engineering services director~~County Engineer or his/her designee may recommend to the board of county commissioners that traffic, other than local vehicular traffic, be routed on canopy roads upon providing information that:
  1. The road has been previously utilized for non-local traffic.

2. The routing of other than local traffic does not create safety concerns or adversely affect the canopy road.
  3. There is a need and necessity to route other than local traffic.
  4. Said recommendations shall be placed on the board's agenda and considered at a meeting commencing at 6:00 p.m.
- I. Appeal. Any decision of the planning director or ~~engineering services director~~ County Engineer or his/her designee that does not require approval of the board of county commissioners may be appealed to the board of county commissioners. Any and all such appeals shall be in writing and provided to the county administrator's office at least fourteen (14) days prior to the next regularly scheduled board of county commissioners' meeting. Said appeal shall be placed on the agenda for consideration by the board of county commissioners.
  - J. Violation. Any person, firm, or corporation who refuses to comply with or violates any provision of this ~~s~~Section shall be punished according to law, and upon conviction for such offenses, shall be punished by a fine, not to exceed five hundred dollars (\$500.00), or for tree removal not to exceed five hundred dollars (\$500.00) per tree, or by imprisonment, not to exceed sixty (60) days in the county jail, or both. Each day of continued noncompliance or violation shall constitute a separate offense.
  - K. Conflict. In the event of conflict between this ~~s~~Section and other county ordinances as adopted, this article shall prevail.

#### **SECTION 5. CODIFICATION.**

It is the intent of the Board of County Commissioners for Nassau County that the provisions of this Ordinance shall become and shall be made part of the Code of Ordinances of Nassau County, Florida. The sections of this Ordinance may be re-numbers or re-lettered and the words may be changed to section, article or other such appropriate word or phrase in order to accomplish such intention. The Nassau County Clerk of Courts will ensure that this Ordinance is codified into, and published, as part of the Nassau County Code of Ordinances.

#### **SECTION 6. CONFLICTING PROVISIONS**

All ordinances, or parts of ordinances, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

#### **SECTION 7. SEVERABILITY.**

In the event that any section, subsection, sentence, clause, phrase, word, term or provision of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly invalid, unconstitutional or unenforceable, any such invalidity, unconstitutionality, illegality, or unenforceability shall not affect any of the remaining terms, provisions, clauses, sentences, or

section of this Ordinance, and this Ordinance shall be read and applied as if the invalid, unconstitutional, illegal, or unenforceable section, subsection, sentence, clause, phrase, word, term or provision did not exist.

**SECTION 8. EFFECTIVE DATE.**

This Ordinance shall become effective immediately upon its being filed with the Office of the Department of the State.

**ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023 BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA.**

BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

\_\_\_\_\_  
KLYNT A. FARMER  
Its: Chairman

ATTEST as to Chairman's Signature:

\_\_\_\_\_  
JOHN A. CRAWFORD  
Its: Ex-Officio Clerk

Approved as to form:

\_\_\_\_\_  
DENISE C. MAY  
County Attorney