

1 PART III - LAND DEVELOPMENT AND GROWTH MANAGEMENT

2 Chapter 3-2 - BUILDINGS AND BUILDING REGULATIONS

3 **ARTICLE IX. - TREE REQUIREMENTS**

4

5 **Sec. 3-2-186. - Definitions.**

6 Terms used in this article are defined as follows:

7 (a) *Agriculture*: As defined by Chapter 570, Florida Statutes.

8 (b) *Authorized county official*: That county employee so designated by the county administrator.

9 (c) *Caliper*: The diameter of a tree trunk in inches, measured at 12 inches above the natural ground  
10 level.

11 (d) *Damaged tree*: A tree that has been wounded (bark scraped or removed, limbs removed or  
12 shattered, roots cut or crushed) to an extent that its survival is unlikely.

13 (e) *Development, development activity*: An activity, other than agriculture, that may include the  
14 following:

15 (1) Clearing, scraping or removing the vegetation from a site.

16 (2) Adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping,  
17 piling, dredging, grubbing, or otherwise significantly disturbing the soils of a site.

18 (3) The construction, reconstruction, conversion, structural alteration, relocation, or enlargement  
19 of any structure; any mining, excavation, landfill, or land disturbance, and any use or  
20 extension of the use of land.

21 (f) *Development site*: That portion of a plot or parcel upon which development occurs.

22 (g) *Diameter at Breast Height*: Diameter of the tree trunk measured at a height of 54 inches from  
23 existing grade. Multi-trunk trees are also measured at 54 inches and the diameters of each trunk  
24 are cumulative.

25 (h) *Hardship*: An exceptional circumstance which is unique to the subject property which is not shared  
26 by other property owners in that area, such as peculiar physical characteristics of the property.  
27 Self-created problems are not undue hardships nor are common difficulties shared by other  
28 property owners in the area.

29 (i) *Drip line*: The outermost perimeter of the crown of a tree as projected vertically to the ground, as  
30 illustrated on Exhibit A.

31 (j) *Heritage tree*: A tree and its root system within the Cypress (*Taxodium spp.*), Oak (*Quercus spp.*),  
32 and Pine (*Pinus spp.*) species which has a minimum 24 inch trunk diameter at breast height.

33 (k) *Native tree*: Any individual tree of a species listed in Figure 1.

34 **FIGURE 1. APPROVED TREE SPECIES—NATIVE**

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American Holly ( <i>Ilex opaca</i> )
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- 1 Bald Cypress (*Taxodium distichum*)
- 2 Baycedar (*Suriana maritima*)
- 3 Black Mangrove (*Avicennia germinans*)
- 4 Blolly (*Torrubia obtusata*; *Buapira discolor*)
- 5 Longleaf (*Torrubia longifolia*)
- 6 Bluejack Oak (*Quercus incana*)
- 7 Button Bush (*Cephalanthus occidentalis*)
- 8 Buttonwood (*Conocarpus erectus*)
- 9 Catclaw Blackbeard (*Pithecellobium unguis-cati*)
- 10 Chapman Oak (*Quercus chapmanii*)
- 11 Cherry Laurel (*Prunus caroliniana*)
- 12 Coastal Plain Willow (*Salix caroliniana*)
- 13 Coconut Palm (*Cocos nucifera*)
- 14 Dahoon Holly (*Ilex cassine*)
- 15 East Palatka Holly (*Ilex opaca* "East Palatka")
- 16 Everglades or Paurotis Palm (*Acoelorrhaphe wrightii*)
- 17 Florida Elm (*Ulmus americana* var. *floridana*)
- 18 Florida Fiddlewood (*Citharexylum fruticosum*)
- 19 Florida Royal Palm (*Roystonea elata regia*)
- 20 Gumbo-Limbo (*Bursera simaruba*)
- 21 Hercules-Club or Toothache-Tree (*Zanthoxylum clava-herculis*)
- 22 Laurel Oak (*Quercus laurifolia*)
- 23 Lime Prickly-Ash (*Zanthoxylem fagara*)
- 24 Live Oak (*Quercus virginiana*)
- 25 Loblobby Bay (*Gordonia lasianthus*)
- 26 Longleaf Pine (*Pinus palustris*)
- 27 Mahogany (*Swietenia mahogani*)
- 28 Myrtle Oak (*Quercus myrtifolia*)
- 29 Pignut Hickory (*Carya glabra*)
- 30 Pond Cypress (*Taxodium ascendens*)
- 31 Pop Ash (*Fraxinum carolinana*)
- 32 Red Bay (*Persea borbonia*)
- 33 Red Mangrove (*Rhizophora mangle*)
- 34 Red Mulberry (*Morus rubra*)
- 35 Sabal or Cabbage Palm (*Sabal palmetto*)

1 Sand Live Oak (*Quercus geminata*)  
2 Sand Pine (*Pinus clausa*)  
3 Sea Grape (*Coccoloba uvifera*)  
4 South Florida Slash Pine (*Pinus elliotii* var. *densa*)  
5 Southern Magnolia (*Magnolia grandiflora*)  
6 Southern Red Cedar (*Juniperus silicicola*)  
7 Southern Red Maple (*Acer rubrum*)  
8 Stoppers (*Eugenia* spp.)  
9 Sugarberry or Hackberry (*Celtis laevigata*)  
10 Swamp Tupeolo or Black Gum (*Nyassa sylvatica*)  
11 Sweet Acacia (*Acacia farnesiana*)  
12 Sweetbay (*Magnolia virginiana*)  
13 Sweetgum (*Liquidambar styraciflua*)  
14 Sycamore (*Plantanus occidentalis*)  
15 Turkey Oak (*Quercus laevis*)  
16 Walter Viburnum (*Viburnum obovatum*)  
17 Water Oak (*Quercus nigra*)  
18 Wax Myrtle (*Myrica cerifera*)\*  
19 White Mangrove (*Languncularia racemosa*)  
20 Yaupon Holley (*Ilex vomitoria*)

21 \*Used in limited quantities—See Figure 3 or section 3-2-193, Minimum tree requirements.  
22

23 FIGURE 2. APPROVED TREE SPECIES—NON-NATIVE

24 Black Olive (*Foresteria segregata*)  
25 Chinese Elm (*Ulmus parvifolia*)  
26 Crape Myrtle (*Lagerstroemia indica*)  
27 Jerusalem Thorn (*Parkinsonia aculeata*)  
28 Loquat (*Eriobotrya japonica*)  
29 Royal Poinciana (*Delonix regia*)  
30 Silver Dollar Eucalyptus (*Eucalyptus cinerea*)  
31 Tree of Gold (*Tabebuia argentea*)  
32 Yellow Poinciana (*Peltophorum petrocarpum*)

33 (l) *Native tree replacement fund*: A fund established to provide money for the purpose of planting  
34 trees on government-owned properties.

35 (m) *Natural ground level*: The elevation and grade of the parcel that existed prior to the development

- 1 activity.
- 2 (n) *No tree affidavit*: A signed notarized statement by the landowner or his agent stating that no trees  
 3 exist upon the site.
- 4 (o) *Parcel*: A lot or tract of land.
- 5 (p) *Planted tree*: A tree which has been nursery grown for resale or otherwise transplanted.
- 6 (q) *Preserved tree*: A tree preserved on-site which has been barricaded or is located 100 feet or more  
 7 from the farthest point of development and will count toward a development's minimum tree  
 8 requirement.
- 9 (r) *Prohibited trees*: Trees of undesirable or exotic species which disrupt natural habitats or are  
 10 otherwise destructive. Trees listed as invasive species on the Florida Exotic Pest Plant Council  
 11 Invasive Plan Lists, Category I and Category II, shall be considered prohibited.
- 12 (s) *Site Plan Review (SPR)*: Staff review of development applications.
- 13 (t) *Spiking* (also known as "spurring"): The use of any metal gaff device, to aid in tree-climbing in order  
 14 to remove branches, limbs or leaves from a tree.
- 15 (u) *Topping* (also known as, "stubbing," "heading," "heading-back," "stubbing off," "tipping,"  
 16 "hatracking," "topping-off," "dehorning," "lopping," "roundover," "cut-over"): Trimming of limbs to  
 17 stubs larger than three (3) inches in diameter within the tree's crown to such a degree as to remove  
 18 the normal canopy and disfigure the tree.
- 19 (v) *Tree*: A woody perennial with one or more well-defined main stems or trunks attaining four inches  
 20 or more in diameter growing upright to maturity, or to form a crown and branching at that point,  
 21 ultimately reaching a height of 14 feet or more.
- 22 (w) *Tree points*: A number calculated according to Figure 3.

23 FIGURE 3. TREE POINTS

Tree caliper (inches)	Points for				
	Retained Native (Except Palms)	Installed Native (Except Palms)	Non-Native* (Installed or Retained)	Native Palms (w/min. 6' clear trunk)	Palmetto 25 sq. ft. of preserved Wax Myrtles (min. 6' tall with at least one 2" stem)
2.0	1.0	1.0	0.5	0.5	0.5
3.0	1.5	1.5	1.0	0.5	N/A
4.0	3.5	2.5	1.5	0.5	N/A
5.0	4.0	3.0	2.0	0.5	N/A

6.0	4.5	3.5	2.5	0.5	N/A
7.0	5.0	4.0	3.0	0.5	N/A
8.0	5.5	4.5	3.5	0.5	N/A
8.0**	6.0	5.0	4.0	0.5	N/A

1 \*From Charlotte County Approved Tree List (Figure 2)

2 \*\*Add .5 points for every inch thereafter (except in the case of Palms, Wax Myrtles, and Palmetto).

3  
4 **Sec. 3-2-187. - Applicability.**

5 The terms of this article shall apply to the removal of any native tree, unless the removal is otherwise  
6 exempted in this article. This article shall also apply to the tree removal, protection, and tree plantings  
7 required of a development.

8  
9 **Sec. 3-2-188. – Exemptions from this Article.**

10 (a) This article shall not apply to the following:

- 11 (1) Properties that meet all of the following criteria:
  - 12 a. The primary principal use is bona fide agriculture;
  - 13 b. The property is zoned for agriculture;
  - 14 c. The future land use map (FLUM) designation is agriculture; and
  - 15 d. The property is not within a development of regional impact (DRI).
- 16 (2) Commercial plant and tree nurseries, where plants and trees are grown or sold for  
17 horticultural purposes.
- 18 (3) Cemeteries.
- 19 (4) Removal of native trees as part of an approved management activity within a preserve or  
20 resource conservation area.
- 21 (5) Removal of native trees with less than four caliper inches and any palm with less than six  
22 feet of clear trunk.
- 23 (6) Removal of non-native trees.
- 24 (7) Removal of dead trees.
- 25 (8) The trimming, cutting, or other alteration to any existing native tree, provided such activities  
26 are consistent with sound horticultural practices.
- 27 (9) Removal of native trees in within utility, drainage, and road right-of-way easements in  
28 existence prior to September 1, 1992 and the expansion of road easements in existence prior  
29 to September 1, 1992.
- 30 (10) Removal of native trees from utility right-of-way easements less than 20 feet in width and  
31 less than one-half mile long. Utility rights-of-way easements greater than 20 feet in width,

1           regardless of length, are subject to the conditions of this article unless said right-of-way  
2           easements are subject to approval under the Transmission Line Siting Act, F.S. §§ 403.52  
3           through 403.5365, or the Florida Electric Power Plant Siting Act, F.S. §§ 403.501 through  
4           403.518.

5 (b) In the event of an emergency such as the approach and imminent landing of a hurricane,  
6       windstorms, flood, freezes, fire, or other disasters, the county administrator retains the authority  
7       to temporarily waive the requirements of this Article.

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9 **Sec. 3-2-189. - Native tree removal.**

10 Prior to the removal of any native tree of four caliper inches or greater and any palm with six or more  
11 feet of clear trunk, the landowner or his agent must receive a tree removal permit signed by a county  
12 official.

13  
14 **Sec. 3-2-190. - Native heritage trees.**

15 No person shall cut down, remove, relocate, or in any way damage a native heritage tree, as defined in  
16 Sec. 3-2-186j. These trees shall be protected without regard to their location or the date of final  
17 development approval.

18 (a) The Zoning Official may exempt a heritage tree from the terms and provisions of this section if:

- 19       (1) The tree is in advanced stages of decline as determined by a certified arborist; or  
20       (2) The tree is located where a structure or improvement allowed as a permitted principal use  
21       under zoning regulations is to be located and the applicant has made every effort to  
22       accommodate the heritage tree within the design of the structure or improvement. It is the  
23       intent of this provision that a permit shall be granted for the removal of a heritage tree only  
24       after the applicant has demonstrated an effort to design and locate the proposed structure  
25       or improvement to prevent the removal of heritage trees consistent with the permitted use  
26       of the property.  
27       (3) The tree is causing substantial structural or utility damage, to be determined by a qualified  
28       engineer.

29 (b) Encroachment under a heritage tree will be allowed only to the extent provided by this article.  
30

31 **Sec. 3-2-191. - Criteria for issuance of native tree removal authorization.**

32 (a) Tree removal authorization shall be granted only when an authorized county official has  
33 determined that the removal is consistent with at least one of the criteria below.

- 34       (1) Trees pose a safety hazard to pedestrian or vehicular traffic or cause disruption to public  
35       utility services.

- 1 (2) Trees pose a safety hazard to buildings or structures.
- 2 (3) Trees completely prevent access or cross access to a lot or parcel.
- 3 (4) Trees prevent development or physical use. It is the intent of this provision that a permit
- 4 shall be granted for the removal of any tree when the applicant has demonstrated an effort
- 5 to design or locate a proposed structure or improvement so as to minimize the removal of
- 6 trees.
- 7 (5) Diseased trees or trees so weakened by age, storm, fire or other injury so as to pose a
- 8 danger to persons, property, improvements or other trees.
- 9 (b) Authorization to remove trees, when granted, shall be confined to the trees specifically
- 10 identified for which removal is permitted. Removal of trees must be performed within six
- 11 months from the date of the issuance of the tree removal authorization or during the
- 12 development activity for which SPR approval was granted.
- 13 (c) Nothing in this article shall be construed to require the removal of any native trees by the
- 14 applicant.
- 15

16 **Sec. 3-2-192. - Application requirements for development activities.**

- 17 (a) All applicants proposing development must submit the following to the community development
- 18 department at the time of application for building permits and prior to any clearing activity:
- 19 (1) A tree inventory consisting of a scaled drawing indicating:
- 20 a. Development site boundaries.
- 21 b. Location of all individual trees, other than prohibited species, which have a caliper four
- 22 inches or greater; the trees' common names; and their approximate calipers.
- 23 c. A scaled drawing superimposed on the tree inventory illustrating all proposed and
- 24 existing improvements; which trees are to be removed; and which trees are to be
- 25 preserved.
- 26 (2) Proof that removal of trees is consistent with tree removal criteria in section 3-2-191.
- 27 (3) A fee may be charged for each caliper inch of tree which has been granted tree removal
- 28 authorization. These fees shall be placed into the native tree replacement fund pursuant to
- 29 section 3-2-197.
- 30 (4) In the event that there are no trees on the development site, the applicant shall not be
- 31 required to provide the tree inventory. In lieu of this requirement the applicant shall submit
- 32 a "No Tree Affidavit."
- 33 (b) For development requiring SPR approval, all documentation listed above and a landscape plan
- 34 illustrating the incorporation of both preserved (if applicable) and planted trees into the proposed
- 35 development must be submitted at the time of preliminary site plan submittal.

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**Sec. 3-2-193. - Minimum tree requirements for development.**

For all development regulated by this article, tree points must be preserved or planted according to Figure 4, below. Damaged trees do not count towards points. A list of trees acceptable for the purpose of this article is given in Figures 1 and 2. (See definitions).

FIGURE 4. TREE POINTS FOR DEVELOPMENT TYPES

Development Type	Number of Tree Points Required
Residential, commercial and industrial	1 tree point for every 2,000 square feet of development site
Outdoor-oriented recreational activities which require open space and are available to the general public	1 tree point for every 4,000 square feet of development site

(a) In order to count toward the minimum tree point requirement, a preserved or planted tree must have a minimum height of eight feet measured from the natural ground level to the highest point of the foliage and a minimum caliper of two inches.

(1) Trees preserved within the minimum required rear and side yard setbacks of the development site may be counted toward the tree point requirement. Trees may be planted anywhere within the development site, including the minimum required rear and side yard setbacks, except where otherwise prohibited by the provisions of this article. A single phase of phased development shall be considered a development site and all the points shall be calculated within that phase.

(2) Trees preserved or planted within easements may be counted toward the tree point requirement.

a. If a preserved tree located within an easement is removed during the lawful development activity within the easement for which the easement was intended, this loss shall not be held against the landowner or against the conditions of this article, and no action shall be taken against the rightful user of the easement for which it was intended.

b. A list of acceptable trees for tree planting in utility easements near power lines is set forth below in Figure 5.

FIGURE 5. RECOMMENDED TREES FOR PLANTING UNDER POWER LINES

Crape Myrtle ( <i>Lagerstroemia indica</i> )
Loquat ( <i>Eriobotrya japonica</i> )
Silver Dollar Eucalyptus ( <i>Eucalyptus cinerea</i> )

1 Sweet Acacia (*Acacia farnesiana*)

2 Wax Myrtle (*Myrica cerifera*)

- 3 c. Trees planted or preserved within easements shall not interfere, at or before maturity,  
4 with power, cable television, or telephone lines, sewer or water pipes, or any other  
5 existing or proposed overhead or underground utility service. Location of underground  
6 utility lines shall be determined prior to easement planting.
- 7 d. In the event that a tree is planted within an easement and is removed during lawful  
8 development activity within the easement for which the easement was intended, this  
9 loss shall be the responsibility of the property owner, the tree shall be replaced, and no  
10 action shall be taken against the rightful user of the easement for which it was  
11 intended.

12 (3) Trees planted to meet the minimum tree point requirements of this article may not be  
13 planted within county rights-of-way.

14 (b) While all preserved native palms may be counted, no more than 25 percent of the required tree  
15 points may be obtained from planted native or non-native palm trees.

16 (c) No more than 50 percent of the required tree points may be obtained from approved non-native  
17 trees (excluding non-native palms, which commonly count for 25 percent of total required points  
18 per section 3-2-193(b).

19 (d) No more than 25 percent of the required tree points may be obtained from approved Wax Myrtle  
20 which has been planted or preserved.

21 (e) No more than 25 percent of the required tree points may be obtained from the approved square  
22 footage of preserved Palmetto.

23 (f) Replacement trees must carry plastic tags identifying their species and retained until the certificate  
24 of occupancy is granted.

25  
26 **Sec. 3-2-194. – Tree preservation and protection during development.**

27 (a) *Tree protection.* Where healthy trees of appropriate location, species, and quality exist on-site prior  
28 to development, efforts shall be made to preserve such trees permanently at natural grade.

29 (1) Prior to the site clearing phase of development, the trees to be preserved shall be protected  
30 by the construction of barriers.

31 (2) The barriers shall be constructed of wooden (or equivalent) posts at least two inches by two  
32 inches, and shall be implanted in the ground deep enough to be stable. The barriers shall be  
33 visible, with at least three feet above the ground. The protective posts shall be placed not  
34 more than six feet apart and shall be linked together using lumber; erosion fabric; net or  
35 plastic fence material, or snow fencing. Stakes strung with line or flagging shall not be

- 1 considered a protective barrier.
- 2 (3) Barriers shall be placed at least six feet from the trunk of any protected palm.
- 3 (4) For tree species other than palms, barriers will be placed at the drip line, except as allowed  
4 in an area of encroachment as defined in subsection (b) of this section.
- 5 (5) In situations where Palmetto (*Serenoa repens*) occurs as a dense understory to existing oaks,  
6 pines, or palms, the existing Palmetto may be used as a living barricade for tree preservation,  
7 provided such Palmettos are retained to the dripline of the proposed preserved tree  
8 throughout construction. If the minimum square footage (25 sq. ft.) of Palmetto is then  
9 retained after construction, such Palmetto may qualify for additional tree points. [See sec.  
10 3-2-193(e)].
- 11 (6) Where clusters of trees or large areas are to be protected, the area may be designated by  
12 barriers placed at the drip line from the outermost trees of the cluster or within the  
13 allowable area of encroachment. (If the outermost trees are palms, the barrier shall be  
14 placed at least six feet from the trunks of the outermost palm.)
- 15 (7) Barriers will remain in place until all construction activity, except landscaping, within the  
16 protected areas is complete.
- 17 (8) Trees not protected in the manner defined by this section throughout the construction  
18 period will not be considered preserved for purposes of this article, except for trees so  
19 located that they are 100 feet or more from the farthest point of development activity.
- 20 (9) No equipment, vehicles, construction materials, temporary structures or buildings,  
21 machinery, fill soil, debris, fuel, paint, solvent, oil, thinner, asphalt, cement, grout, or  
22 construction chemical of any kind will be placed, allowed to enter, or be stored within the  
23 protective barriers established around protected trees or protected areas.
- 24 (10) Temporary sanitation facilities shall not be located within the tree protection areas.
- 25 (11) No damaging attachment, wires (other than support wires for a tree), signs or permits shall  
26 be fastened to any tree protected by this article.
- 27 (b) *Encroachment permitted:* In the event that the preservation techniques referenced in subsection  
28 (a) are deemed impracticable, trees and tree roots may be encroached upon (See Exhibit A for  
29 diagram) subject to the following conditions:
- 30 (1) No more than one-half of the radius of the tree canopy is impacted. This encroachment shall  
31 occur on no more than one side of the tree.
- 32 (2) No more than one-third of all tree roots found at the outermost limits of the tree's drip line  
33 are encroached upon.
- 34 (3) The remaining area of the tree's roots shall be protected by barriers at the drip line  
35 throughout construction and shall remain in preconstruction condition during and after

1 construction.

2 (4) Paved areas of allowable encroachment shall use techniques that provide for aeration and  
3 irrigation of the root system. These techniques include:

4 a. Substituting gravel or pebbles for typical fill soils; and

5 b. Using pervious or porous paving materials in the areas of encroachment.

6 (5) Supplemental irrigation shall be provided throughout construction in order to mitigate tree  
7 stress induced by this encroachment.

8 (c) If the development utilizes construction techniques such as pilings or piers, which will not impact  
9 tree root systems, the area of allowable encroachment may be exceeded.

10 (d) In no event shall a damaged tree, a dead tree, a tree not protected in accordance with the  
11 provisions of this section, or a tree not included in Figures 3 and 4 be counted as a preserved or  
12 planted tree for purposes of this article.

13 (e) On-site inspection for conformance with the provisions of this section shall be conducted by the  
14 code compliance division inspectors or authorized county official at any time during a site's  
15 development.

16  
17 **Sec. 3-2-195. – Compliance with Minimum Tree Requirements.**

18 On-site inspection for conformance with the requirements of this article shall be conducted by the  
19 County in order to receive a certificate of occupancy (C.O.).

20 (a) The board of county commissioners shall establish, by resolution, appropriate fees to defray the  
21 cost of enforcing the provisions of this article.

22 (b) If the requirements of this article are not met at the time of final inspection, a reinspection fee, in  
23 an amount established by resolution, will be assessed for any additional inspections.

24 (c) For a period of one year from the date of the issuance of the C.O., any tree regulated by this article  
25 that dies, or receives major damage or contracts a disease, such that its restoration to a sound  
26 condition is impractical, must be replaced by a tree of comparable size and type or a combination  
27 of trees having an equal number of tree points. Compliance may be determined by a follow-up  
28 inspection that may occur up to one year from the date of the original C.O. inspection.

29 (d) Any tree which is required as a replacement to the original C.O. tree is also subject to a one-year  
30 follow-up inspection, following its installation.

31  
32 **Sec. 3-2-196. - Tree replacement.**

33 Qualifying, existing trees shall be preserved whenever feasible in order to meet the tree point  
34 requirements. Whenever the removal of trees on a development site would result in failure to meet  
35 the minimum tree point standards, approved replacement trees shall be planted in sufficient number

1 and size to meet these standards, and the following conditions shall apply:

2 (a) *Approved tree species.* All trees selected to meet the requirements of this article shall be chosen  
3 from the Approved Tree List, Figures 1 and 2. Other tree species may be included on the  
4 development site, except prohibited species, but they shall not be counted toward meeting the  
5 requirements of this article. Trees planted in compliance with chapter 3-5, article XVIII, Landscape  
6 Requirements, of the County Code, may be used to help satisfy the requirements of this section,  
7 provided they meet the criteria set forth in this article.

8 (b) *Tree quality.* All trees used in conformance of this section shall meet the standards for Florida No. 1  
9 or better as provided by *Grades and Standards for Nursery Plants, Part II, Palms and Trees*; current  
10 edition; State of Florida, Department of Agriculture, Tallahassee.

11 (c) *Installation.* The property owner(s) shall be responsible for installing all trees in a sound,  
12 professional manner and in accordance with accepted good horticultural techniques.

- 13 (1) Grow bags and containers shall be completely removed from the root ball prior to planting.
- 14 (2) Burlap shall be sliced in both directions on the sides of the root ball and removed from the  
15 top one-third of the root ball.
- 16 (3) All twine or wire shall be cut off from around the trunk at the top of the rootball.
- 17 (4) Trees shall be mulched to a minimum depth of two inches and a maximum depth of four  
18 inches with organic mulch at least to the perimeter of the root ball.
- 19 (5) The owner(s) or their agent(s) shall provide sufficient soil and water to sustain healthy  
20 growth of all trees.

21 (d) *Anchoring.* Trees with a caliper of four inches or more shall be anchored for a period of at least one  
22 year. Single staking of trees shall be prohibited.

23 (e) *Postponement of planting.* In the event the property owner is not residing in Charlotte County at  
24 the time of certificate of occupancy (C.O.) issuance, and (i) wishes to choose and install his/her own  
25 trees; or (ii) is not available to care for the newly planted trees, upon written request, the property  
26 owner may post a security deposit, either as cash or certified check, which is equivalent to the  
27 established dollar amount for the development's required number of tree points. (Same as the  
28 "buy-out" fee). This cash security deposit is valid for 90 days from the issuance of the C.O.

- 29 (1) Upon inspection and written approval from the County that all tree installation has been met  
30 within the allotted ninety-day period, the posted security deposit will be refunded within five  
31 working days.
- 32 (2) Should the property owner fail to properly install the required number of tree points in the  
33 allotted time, the money will be placed into the native tree replacement fund without  
34 further refund.

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**Sec. 3-2-197. - Native tree replacement fund.**

(a) The public works department is hereby authorized and directed to administer a native tree replacement fund which consists of monies collected as payment for tree removal authorization and in lieu of planting or preserving trees on developed properties. The community development department is hereby authorized and directed to collect the monies for payment of the native tree replacement fund. Thus, a person shall pay to the community development department a sum determined by multiplying the number of required tree points which they wish to be excused from preserving or planting on a development site times the native tree replacement fee, said fee to be established by resolution of the board of county commissioners.

- (1) The community development department shall keep records of the monies received pursuant to this section.
- (2) The board of county commissioners shall establish, by resolution, a program administered by the public works department which shall apply monies received to the planting of native trees, native shrubs, mulch, installation, design, and irrigation on lands or easements of the county or government owned lands. Non-substantive amendments may be made from time to time without action by the board of county commissioners as deemed necessary for the administration of the program.

**Sec. 3-2-198. - Slope variance.**

Notwithstanding other county requirements, and in order to facilitate the policy that preservation is more desirable than replacement, if preservation cannot be accomplished in conjunction with a 6 to 1 slope but can be accomplished by using a 4 to 1 slope, then such is authorized. The construction of tree wells and the use of stemwall construction may be used and is encouraged whenever possible to prevent changes in the grade within the drip line of protected trees.

**Sec. 3-2-199. - Water retention/recharge areas.**

As an additional alternative to present slope requirements, when the use of water retention/recharge areas can be accomplished on-site and is beneficial to trees to be preserved, such retention/recharge areas may be used.

**Sec. 3-2-200. - Prohibited trees.**

The planting of any prohibited species of tree shall be strictly prohibited.

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**Sec. 3-2-201. - Prohibited practices.**

The following practices or procedures shall be considered unlawful in the county, except where exempted:

(a) It shall be unlawful practice for any person, firm or agency to "top" or allow to be "topped", or severely prune, so as to appear stunted, any tree.

(1) All tree pruning shall be conducted according to the latest edition of the National Arborist Association standards, which are hereby incorporated by this reference.

(2) Trees severely damaged by storms or other causes, or certain trees under utility lines or other obstructions where other pruning practices are impractical may be exempted from this section.

(b) It shall be unlawful for any person, firm, or agency to climb any living tree, using the practice known as "spiking" or "spurring". The practice of "spurring" or "spiking" shall be allowed only to achieve the total removal of a tree for reasons authorized by this article.

**Sec. 3-2-202. - Voluntary planting.**

This article shall not be interpreted to restrict, regulate, or limit the voluntary planting of any tree, other than prohibited trees, in the county. The provisions of this article govern only the planting of trees which are required to be planted or retained under this ordinance.

**Sec. 3-2-203. - Variance, appeal and penalty.**

(a) *Variance.*

(1) The board of zoning appeals may, upon appropriate application in writing, vary or waive the terms and provisions of this article due to unreasonable hardship in specific cases. The criteria for a variance are as follows:

- a. Unique or peculiar conditions or circumstances apply to the property.
- b. The strict literal enforcement of the terms of this regulation would result in demonstrable and undue hardship or deprive the property owners of rights commonly enjoyed by other property owners.
- c. The requested variance is the minimum modification of these regulations.
- d. The requested variance is compatible with all other county regulations.

(2) The preservation of any approved tree over 18 inches diameter at breast height may be considered by the appropriate county official as the basis for the granting of a variance from the literal application of the provisions of this article and other county regulations.

(b) *Appeal.* Any party aggrieved by the administrative interpretation or enforcement of this article may

1 appeal to the board of zoning appeals pursuant to the Charlotte County Code.

2 (c) *Penalty for violation.*

- 3 (1) Each preserved tree destroyed or suffering detrimental alteration during construction must  
4 be replaced by either a comparable size and type of tree, or by tree replacement conditions  
5 as provided by this article, before issuance of a certificate of occupancy.
- 6 (2) No certificate of occupancy or power release shall be issued for any development until all  
7 applicable approval or restoration plan conditions have been accomplished.
- 8 (3) Failure to comply with any provisions of this article shall be referred to the code  
9 enforcement board, which has the power to levy a fine not to exceed \$250.00 per day for  
10 each day the violation occurs.
- 11 (4) If an individual fails to obtain the appropriate authorization for any tree removal prior to  
12 development, the community development department may require a fine, which will vary  
13 depending on the number of offenses within the calendar year.
- 14 a. For a first offense, the fee is four times the original tree removal fee. In the case of tree  
15 removal fee exemptions, the fee is four times the standard processing fee.
- 16 b. For a second offense in one calendar year, the fee is four times the original tree  
17 removal fee plus \$150.00. In the case of tree removal fee exemptions, the fee is four  
18 times the standard processing fee plus \$150.00.
- 19 c. For multiple offenses within one calendar year, the fee is four times the original tree  
20 removal fee plus \$500.00 for each occurrence. In the case of tree removal fee  
21 exemptions, the fee is four times the standard processing fee plus \$500.00
- 22 (5) If an individual falsifies information on any tree form, or does not post the tree permits on  
23 the subject property, the community development department may require a fine, which  
24 will vary depending on the number of offenses within a calendar year.
- 25 a. For a first offense, a written warning.
- 26 b. For a second offense in one calendar year, the fine is \$50.00.
- 27 c. For multiple offenses within one calendar year, the fine is \$150.00 for each occurrence.
- 28 (6) For violations to any prohibited practice or planting a prohibited tree, the community  
29 development department may require a fine, which will vary depending on the number of  
30 offenses within a calendar year.
- 31 a. For a first offense, a written warning.
- 32 b. For a second offense in one calendar year, the fine is \$50.00.
- 33 c. For multiple offenses within one calendar year, the fine is \$150.00 for each occurrence.