
ORDINANCE NO: 2025-02

AN ORDINANCE OF THE CITY OF APALACHICOLA, FLORIDA, PROVIDING FOR THE AMENDMENT OF PART II, SUBPART B, CHAPTER 105, ARTICLE II, TREE PROTECTION, SECTIONS 105-21 THROUGH 105-30; CHAPTER 109, ARTICLE II, SITE PLAN REVIEW REGULATIONS SECTIONS 109-46 THROUGH 109-51 AND CREATING CHAPTER 111, ARTICLE I, SITE PLAN REVIEW REGULATIONS SECTION(S) 111-10 THROUGH 111-15; PROVIDING FOR PURPOSE; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

FINDINGS:

WHEREAS, the City of Apalachicola is a Florida Municipality duly incorporated, with all the rights and powers as provided in s. 2(b), Art. VIII of the State Constitution.

WHEREAS the City to provide clarification and additional guidance regarding the protection of trees located within the City. The amendments provide for additional definitions, permitting considerations and enforcement;

WHEREAS, the City of Apalachicola has determined that it is in the public interest to adopt amendments to its Land Development Code pertaining to Tree Protection and Site Plan Review;

WHEREAS, included in this Ordinance is the relocation of the general Site Plan Review Regulations being amended in order to remove them from Chapter 109 and move them to Chapter 111 as indicated for clarity; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF APALACHICOLA, FLORIDA, that:

NOTE: ~~Struck-through language~~ is language proposed to be deleted, Underlined language is amended language, and * represents sections that have been skipped and that remain unchanged.**

Chapter 105 ENVIRONMENT

ARTICLE II. TREE PROTECTION

Sec. 105-21. Purpose and Intent.

- (a) Trees are recognized to be a valued asset, providing a healthier and more beautiful environment in which to live. Tree preservation enhances the value and marketability of property and thereby promotes the stability of residential neighborhoods, making them more livable and desirable.
- (b) This article establishes protective regulations for tree preservation and a permitting process to ensure good management practices on private and city-owned property, including utility easements for continued healthy and beautiful trees.

Sec. 105-22. Definitions.

Tree. A woody plant having one or more well-defined trunks capable of being maintained with a clear trunk and normally growing to an overall height at maturity of a minimum of 15 feet.

Diameter at breast height. The diameter of a tree trunk as measured four and a half (4 ½) feet above ground level.

Dead. In a state of irrecoverable decline with more than 50 percent of leaves, branches, and limbs not alive.

Drip line. The limiting line established by a series of perpendicular drop points marking the maximum radius of the crown of an existing tree, but not less than ten feet from the trunk, whichever is greater.

Heritage tree. A protected native tree (section 105-23) whose trunk is 35 or more inches in diameter at breast height.

Relocate. As used in article II, tree protection regulations and elsewhere in this Code, the digging up of a protected tree by a property owner from a place on the owner's property and the planting of the same tree in another place on the same property or in a public place.

Substantial alteration. The heavy cutting of top branches (topping), cutting of major lower limbs (elevating), or significant trimming of a tree that alters the natural symmetry of the tree. The term does not include customarily accepted practices used by certified arborists for pruning shade trees.

Sec. 105-23. Protected native trees.

The native trees predominately foresting the City of Apalachicola are:

Bald and pond cypress (*Taxodium distichum* and *Taxodium ascendens*),

Eastern and southern redcedar (*Juniperus virginiana* and *Juniperus silicicola*),

Live oak (*Quercus virginiana*),

Longleaf pine (*Pinus palustris*),

Sabal (cabbage) palm (*Sabal palmetto*),

Southern magnolia (*Magnolia grandiflora*), and

Sycamore (*Platanus occidentalis*).

Individual trees of these species having diameters of eight or more inches at breast height are protected (hereinafter referred to as "protected trees"). Other native trees and all nonnative trees are not protected.

Sec. 105-24. Preservation of heritage trees.

No heritage tree on privately- or city-owned property shall be removed or substantially altered by a private landowner or a department of the city unless:

- (1) Under a declared emergency (section 105-25(1)(c)) or in the case of an imminent hazard (section 105-25(2)), the city manager, or in the manager's absence the manager's designee (e.g., code enforcement officer), finds for a specific tree that immediate action is required to eliminate a condition endangering public safety or property.
- (2) In a non-emergency or non-imminent hazard situation:
 - a. On private property, coincident with the planning and zoning board's approval of a proposed development plan that is conditional on a tree permit application being approved, the city manager approves the issuance of a tree permit to a private landowner to remove or substantially alter a tree on a lot because not doing so would make the lot undevelopable for any principal structure (section 105-26(1)(c)).
 - b. On private property when no development is proposed or on city property, the city manager documents in writing his or her reasons for allowing removal or substantial alteration (sections 105-26(1)(c) and 105-26(2)(c)).

Sec. 105-25. Activities exempted from or requiring a tree permit.

- (1) A tree permit is not required for the following exempt activities:
 - a. Unprotected trees—The removal, relocation, or substantial alteration of:
 - Native trees not listed in section 105-23;
 - Native trees listed in section 105-23 that are less than eight inches in diameter at breast height;
 - Cultivated varieties of once native trees developed by selective breeding and sold by plant nurseries;
 - and
 - Nonnative trees, including invasive species.Dead trees when the code enforcement officer inspects the trees and agrees they are dead.
 - b. As provided by State law (F.S. § 163.045), the pruning, trimming, or removal of a tree on a residential property if the property owner possesses documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree poses an unacceptable risk to persons or property. A tree poses an unacceptable risk if removal is the only means of practically mitigating its risk below moderate, as determined by the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017).
 - c. Pruning—Pruning of unprotected trees, and light pruning of protected trees that does not substantially alter the protected trees.
 - d. Emergency—The removal or substantial alteration of any significantly-damaged, protected, non-heritage tree during or following a natural or man-made disaster (e.g., hurricane, tornado, high wind, flood, or forest fire) when the city commission or manager declares a state of emergency and determines that permitting requirements will hamper private or public work to restore safety and order to the city. City permission is required to remove or substantially alter a heritage tree (section

105-24(1)). In the interest of expeditiously addressing damaged heritage trees, the city's oral permission is sufficient, and written permission is not required.

e. Highway and electric utility rights-of-way—The removal or trimming of protected trees by:

The Florida Department of Transportation along roads under its jurisdiction to maintain safe lines of sight at road intersections and alleys and horizontal clearance areas along roadways where errant vehicles leaving the roadway might travel.

The electric utility along power lines necessary for the maintenance of accepted public safety standards and system reliability.

(2) A tree permit is required for the following activities.

Any removal or substantial alteration of a protected tree not exempted in section 105-25(1). Some specific situations requiring a permit include:

Imminent hazard—The removal or substantial alteration of a protected tree when an applicant proposes that immediate action is required due to a condition endangering public safety or property.

Diseased or pest-infested tree—The removal or substantial alteration of a diseased or pest-infested, protected tree when an applicant proposes that doing so will prevent the spread of the disease or pests to healthy trees.

Storm-damaged tree—The removal or substantial alteration of a protected tree damaged by a storm for which the city commission or manager did not declare a state of emergency.

Tree in decline—The removal or substantial alteration of a protected tree that has lost vigor and displays pale green or yellow leaf color, small leaves, poor growth, leaf drop, or dieback of twigs and branches. A tree in decline is not a dead tree.

Sec. 105-26. Permits for removal, relocation, or substantial alteration of protected trees.

Any person wishing to remove or substantially alter a protected tree shall submit an application to the code enforcement officer.

A tree permit shall be issued to remove or substantially alter a protected tree only if such action is in compliance with these article II requirements and the section 109-51 site plan requirements.

Substantial alteration of a protected tree shall be allowed only under a declared emergency (sections 105-24(1) and 105-25(1)(c)), when a permit is obtained in the case of an imminent hazard (sections 105-24(1) and 105-25(2)), or when a permit is obtained in a non-emergency or non-imminent hazard situation to eliminate limbs that encroach on an adjacent structure.

(1) Private property.

- a. If the proposed tree removal or substantial alteration is in conjunction with proposed development the planning and zoning board reviews (e.g., a newly-proposed structure, the expansion of an existing structure where the footprint increases in size, the construction of a driveway or walkway, or other such development that disturbs the land surface), the code enforcement officer shall implement these tree protection requirements at the time the planning and zoning board reviews and decides to approve, conditionally approve, or disapprove the site plan.
- b. If the proposed tree removal or substantial alteration is not in conjunction with proposed development that the planning and zoning board reviews (e.g., tree removal due to tree roots affecting the structural integrity of a building foundation), the code enforcement officer, city manager, or a designee shall implement these tree protection requirements at the time he or she reviews and makes a decision on the tree removal or substantial alteration application. Only the city manager shall make decisions on heritage trees (subsection c).

- c. If the proposal is the removal or substantial alteration of a heritage tree, the code enforcement officer shall provide a copy of the tree application to the tree committee appointed by the city commission. The committee shall review the tree permit application and make a recommendation to the city manager.

When proposed removal or substantial alteration of a heritage tree is in conjunction with a development plan for a privately-owned lot that is reviewed by the planning and zoning board, the city manager shall allow removal or substantial alteration of the heritage tree only when no principal structure could be legally built on the lot taking into consideration the location of the tree and such requirements as setbacks and minimum required size for single-family dwellings. Through the variance process the board of adjustment may consider reducing setbacks or minimum dwelling size if doing so would spare the tree.

The city manager's reasons for allowing removal or substantial alteration of a heritage tree shall be documented in writing.

(2) City property.

- a. A person wanting to remove or substantially alter a protected tree on city property adjacent to private property owned by the person (e.g., to create an entryway to a proposed driveway on private property) shall apply for a tree permit. Cost of the permit and tree removal or substantial alteration shall be borne by the applicant.
- b. A city department wanting to remove or substantially alter a protected tree on city property shall make a request to the code enforcement officer. To document the request, the code enforcement officer shall prepare a tree application for the proposed action. Removal or substantial alteration of the tree shall not occur unless the code enforcement officer, city manager, or one of their designees approves the removal or substantial alteration.
- c. If the proposal is the removal or substantial alteration of a heritage tree, the code enforcement officer shall provide a copy of the tree application to the city manager and tree committee appointed by the city commission. The committee shall review the tree permit application and make a recommendation. The city manager shall make a decision on the proposal and document in writing the reasons for allowing any removal or substantial alteration.

As a condition of approval, decision makers may require that certain protected trees or native trees listed in section 105-23 that are less than eight inches in diameter at breast height be relocated from the area of proposed development to an undeveloped location.

Under a tree permit, thinning of healthy protected trees may be justified if selective removal of trees improves the development of remaining trees and allows them to grow faster and in a fuller, characteristic form.

To ensure that a tree permit is not prematurely issued for a proposed development that is never approved, the tree permit and building permit will be issued simultaneously.

Sec. 105-27, Protection of trees during building operations.

Within the drip line radius of a protected tree, the following activities shall not occur during development, redevelopment, or improvement: deposition of debris and fill; storage of gasoline, oil, paint, chemicals, and other toxic materials harmful to trees; and attachment of wire to trees.

Driveways and sidewalks of impervious concrete and asphalt may not be constructed within the drip line of protected trees.

Sec. 105-28. Utility easement trimming.

Electric utility companies and their contractors that perform vegetation maintenance and tree pruning or trimming within electric utility right-of-way corridors shall do so in accordance with the following requirements. As defined in State law (F.S. § 163.3209), "vegetation maintenance and tree pruning or trimming" means "the mowing of vegetation within the right-of-way, removal of trees or brush within the right-of-way, and selective removal of tree branches that extend within the right-of-way."

- (1) All tree management will be limited to what is necessary for the proper maintenance of existing and new utility facilities in order to provide safe and reliable utility service.
- (2) Prior to vegetation maintenance and tree pruning or trimming, the utility shall provide the city manager with a minimum of five business days' advance notice. Such advance notice is not required for vegetation maintenance and tree pruning or trimming required to restore electric service or to avoid an imminent vegetation-caused outage.
- (3) The electric utility shall meet with the city manager, or the manager's designee (e.g., code enforcement officer), to discuss and submit the utility's vegetation maintenance plan, including the utility's trimming specifications and maintenance practices. The plan shall identify any heritage trees that are proposed for trimming and the amount of trimming proposed.
- (4) Vegetation maintenance and tree pruning or trimming conducted by utilities shall conform to American National Standards Institute (ANSI) A300 (Part I)—2008 (R2014) pruning standards and ANSI Z133.1-2000 Pruning, Repairing, Maintaining, and Removing Trees, and Cutting Brush—Safety Requirements.
- (5) Vegetation maintenance and tree pruning or trimming conducted by utilities must be supervised by qualified electric utility personnel or contractors licensed to do business in the City of Apalachicola and trained to conduct vegetation maintenance and tree trimming or pruning consistent with these requirements or by certified arborists certified by the certification program of the International Society of Arboriculture. Trimming of patriarch trees may only be performed by certified arborists.

Sec. 105-29. Reforestation fund.

Fees collected for the lawful removal of protected trees shall be placed in a reforestation fund maintained by the City of Apalachicola. (Fees for the administrative processing of tree permit applications and fines for the unlawful removal or substantial alteration of protected trees (section 105-30) shall not be placed in the reforestation fund.) Reforestation fund fees shall be spent to acquire, install, and maintain, and promote a reforestation program on city property, primarily in parks, squares, and along highway and street corridors.

The city, by resolution, is authorized to set and change the permit application fee and any corresponding reforestation fund fee for permits applied for in this article, which resolutions are incorporated by reference herein.

Sec. 105-30. Penalties for violations.

Any person that removes or substantially alters a protected tree before a tree permit is obtained shall be charged a doubled permit application processing fee for an after-the-fact permit.

If an after-the-fact tree permit is not issued because the tree removal or substantial alteration is not in accordance with these tree protection regulations, a fine in the amount specified in section 101-143 shall be imposed. Each tree that is illegally removed or substantially altered is a separate offense.

Any person that illegally removes or substantially alters a patriarch tree shall be fined up to \$25,000.00.

Commercial tree care contractors or general contractors are required to be licensed by the city in order for them to conduct business within the city. Commercial tree care contractors or general contractors hired by the City

of Apalachicola to complete tree removals or substantial alterations must show proof of commercial general liability insurance in the amount of \$1,000,000.00 per occurrence for bodily injury and property damage with a provision that does not allow cancellation without 30 days written notice to the city. Two or more violations of any provision of these tree protection requirements by any commercial tree care contractor or general contractor may result in revocation of such person's license to do business within the city.

Chapter 109 HISTORIC PRESERVATION

ARTICLE II. HISTORIC AND CULTURAL PRESERVATION REGULATIONS

Sec. ~~111-10109~~-46. Purpose and Intent.

The public health, safety and welfare require the harmonious, orderly and progressive development of land within the City of Apalachicola. The development of the land is a vital step in the process of community development. Once land has been developed, the correction of defects is costly and difficult. Substantial public responsibility is created by each new development, involving the maintenance of streets and storm water management systems and the provision of additional public services. As the general health, safety and welfare of the community are thereby affected by the development of land, it is in the direct interest of the public that site development be conveyed, designed and carried out in accordance with sound land and water management principles.

The purpose and intent of this chapter is to assure that new development within Apalachicola will not adversely affect the public's natural or financial resources, especially Apalachicola Bay or its tributaries.

Sec. ~~111-11109~~-47. Applicability.

This chapter establishes procedures and standards for the preparation, review and approval of plans to carry out development.

Sec. ~~111-12109~~-48. Procedures for site plan application, review and decision.

(1) *Pre-application conference.*

- a. It is recommended that the applicant meet with the city planner, building department and building official to discuss the proposed development prior to submitting a formal application. The purpose of this conference is to familiarize the applicant with minimum design guidelines and to minimize any potential adverse impacts of the proposed development on the city's natural or financial resources.

(2) *Application.*

- a. An approved site plan is required prior to the issuance of a building permit. It shall be considered unlawful for any person to construct, erect or alter a building or structure or to develop, change or improve land for which a site plan is required except in accordance with an approved site plan. Enforcement shall occur pursuant to Chapter III of this Code for failure to obtain a permit or for failure to follow a permit.
- b. The site plan shall be prepared in accordance with requirements contained in this section. For a plan to be placed on the agenda of the next planning and zoning board meeting, the plan must be received by the building department and considered complete no less than 30 days prior to the planning and zoning board meeting.
- c. The applicant shall submit four copies of all parts of the site plan. Electronic copies of site plans and building plans may also be submitted if available.

(3) *Review.*

- a. The city planner and building department shall review the site plan to determine whether all required information is included in the application. If any required information is missing, the building department shall inform the applicant of any information required to complete the application.
- b. All site plans for architectural compatibility shall be reviewed by the planning and zoning board sitting as the architectural review board.

(4) *Decision.*

- a. Based upon the information contained in the site plan application, the planning and zoning board shall approve, approve subject to stated conditions, or deny the site plan. Any person aggrieved by the decision of the planning and zoning commission may, in accordance with Chapter III, file a written appeal within the city commission.

(5) *Construction.*

- a. Upon site plan approval and issuance of a building permit, the development shall be built in accordance with the approved site plan and site regulations. Deviation from the approved site plan shall require the submission of an application for a revised site plan.

Sec. 111-13 ~~109-49~~. Fees.

Application fees for site plan review, as adopted from time to time by the city commission, must be paid by the applicant at the time of application.

Sec. 111-14 ~~109-50~~. Time limit on approval.

Following approval of the site plan, the applicant shall have one year, unless to commence construction on the site. Notwithstanding the above time frame, site plans for multifamily development and new non-residential development shall be effective for two years. Any site where development has not commenced shall cause the site plan to be re-evaluated by the appropriate bodies and any newly adopted regulations shall be imposed at the discretion of the city.

Sec. 111-15 ~~109-51~~. Site plan requirements.

- (1) Site plans or any portion thereof involving engineering shall be certified, sealed, and prepared by and/or under the direct supervision of a professional engineer, qualified by training and experience into the specific technical field involved and registered or licensed to practice that profession.
- (2) Site plans shall contain documents and maps indicating:
 - a. General information:
 - i. Name of project.
 - ii. Intended use of site.
 - iii. Legal description of the property, size of parcel in acres or square feet and the linear dimensions of the property.
 - iv. Name, address and telephone number of the owner or owners of record.
 - v. Name, address and telephone number of the owner's designated agent or attorney.
 - vi. Names, addresses, signatures and registrations of the professionals preparing the plan.
 - b. Maps:

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- i. Vicinity map, showing relationship of proposed development to the surrounding streets, wetlands and surface water bodies at a scale of not less than one inch equals 2,000 feet.
 - ii. Site plan map with date and north arrow at a scale not smaller than one inch equals 50 feet.
 - iii. Elevation survey and topography at one foot contour intervals, existing and proposed.
 - iv. Building restriction lines (i.e., highway setback lines, easements, covenants, rights-of-way, and building setback lines, existing and proposed).
 - v. Location of existing and proposed building and structure footprints.
 - vi. Location, elevation, and dimensions and materials of existing and proposed drive areas, or other paving.
 - vii. Location of existing and proposed fences by type of material (e.g., wood or metal), type of design (open or closed) and height.
 - viii. Location of existing and proposed walls by type of material (e.g., brick or masonry).
 - ix. Location of each proposed, off-street parking space (regular and handicapped) and how they will be identified on site with paint or curb stops, including a diagram showing traffic circulation on site and access and egress to adjacent street.
 - x. Location of proposed, designated loading and unloading zones.
 - xi. Location of temporary and permanent structures and features proposed in the stormwater management plan.
 - xii. Species and size (inches diameter breast height) of existing protected trees and which of these trees are proposed to be removed, relocated, or substantially altered.

c. Proposed buildings and structures:

- I. Number of stories.
 - II. Square footage grosses each floor.
 - III. Building height.
 - iv. Multi-family dwellings.
 - (I) Number and square footage of dwelling units and density (dwelling units per acre).
 - (II) Calculation of off-street parking spaces required by supplementary parking section showing the number of dwelling units and spaces.
 - v. Commercial. Calculation of off-street parking spaces required by Chapter IV Zoning District supplementary parking section showing:
 - (I) Projected number of employees on peak shift.
 - (II) If an eating and/or drinking establishment, seats and occupancy load and number of tables for service and number of stools at service counter.
 - (III) If an office, studio or financial institution, floor space
 - (IV) If a retail establishment, floor space devoted to merchandising.
 - (V) If a child care center, floor space.
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- d. Lot coverage allowed by the zone and calculations showing proposed lot coverage. Materials used to cover surface drive areas, walkways, patios and other areas counting as lot coverage.
- e. New multi-parcel (e.g., subdivision), commercial, and multi-family developments:
- i. Existing infrastructure (on-site, adjacent to site, and across or opposite any public right-of-way.)
 - Surface drive areas and median/curb cuts to access driveways.
 - Sidewalks, streets, alleys, and easements (note widths and type).
 - Size and location of nearest water mains, valves, and fire hydrants.
 - Sanitary sewer systems (size and invert elevations).
 - Power, telephone and cable lines.
 - ii. Proposed streets, sidewalks, and surface drive areas:
 - If required, engineering plans and specifications including elevation and dimensions for streets, sidewalks, and surface drive areas (driveways, parking areas and storage areas).
 - Cross section of proposed street improvements
 - Fire lanes.
 - Locations of proposed surface drive areas, curb or median cut(s) to access driveways.
 - Internal traffic circulation plan, including directional arrows and signs to direct traffic flow.
 - Location of traffic-control signs and signalization devices.
 - Locations of sidewalks.
 - Coordination of walkways and driveway and their elevations with facilities in adjacent developments, including the elevation of the crown of the most adjacent road to ensure that lot filling and hardened surfaces are not elevated higher than local streets.
 - Proposed streets and alleys.
 - When applicable, the location of service roads and access roads extended onto the site.
 - iii. Proposed water and sewer facilities:
 - Water. Size, material, and location of water mains, valves and fire hydrants. Engineering plans and specifications are required prior to the issuance of a building permit.
 - Sanitary sewer systems. Size, material, and location of lines. Engineering plans and specifications, with submittal of a profile where required, are required prior to the issuance of a building permit.
 - Any commitments, such as contributions to offset public facilities impacts.
 - Projected water usage in gallons per day, projected solid waste, projected number of school age children.
- f. Solid waste handling facilities. The location of the dumpster and access for refuse service collection, including dumpster pad screening, fencing and landscaping shall be identified.
- g. Dredge and fill. If any dredging or filling is intended in the development, a copy of the complete environmental resource permit application proposed for the Northwest Florida Water Management District shall be provided.
- h. Stormwater management plan requirements general:
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- I. Sufficient information for the city to evaluate the environmental characteristics of the affected areas, the potential and predicted impacts of the proposed activity on wetlands and surface water, and the effectiveness and acceptability of those measures proposed for reducing adverse impacts.
 - II. If a State stormwater permit is required, the following shall be a part of the stormwater plan submitted to the city.
 - III. The design contained in any ten-two (10/2) self-certified general permit).
 - IV. A design that treats run off from the 25 year-24-hour duration storm event and ensures that post development runoff rates, volumes and pollutant loads do not exceed pre-development conditions:

The design contained in a complete application proposed to a State agency for:

- A general permit or;
- An environmental resource permits.

For proposed development not requiring a State stormwater permit, a plan to control surface water runoff including:

- Temporary sediment control barriers and vegetative cover;
- Permanent best management practices.

Sec. ~~109-24~~ 109-52. [Historic Apalachicola Design Guidelines.]

The historic design guidelines of the city, adopted by Ordinance No. 2013-03 on Aug. 6, 2013, are incorporated herein by reference as if fully set out at length, and a copy is on file and available for inspection in the offices of the city and a copy is on file and available for inspection in the offices of the city and may be accessed at the city's website, <https://www.cityofapalachicola.com/>.

ARTICLE II. ~~IN GENERAL~~ SITE PLAN REVIEW REGULATIONS

Sec. 111-1 through 111-9 *.....*

Insert new Sec. 111-10 through 111-15 from Chapter 109 as amended above.

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Sec. 105-22. Definitions.

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Dead. In a state of irrecoverable decline with more than 50 percent of leaves, branches, and limbs not alive.

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Relocate. As used in article II, tree protection regulations and elsewhere in this Code, the digging up of a protected tree by a property owner from a place on the owner's property and the planting of the same tree in another place on the same property or in a public place.

Substantial alteration. The heavy cutting of top branches (topping), cutting of major lower limbs (elevating), or significant trimming of a tree that alters the natural symmetry of the tree. The term does not include customarily accepted practices used by certified arborists for pruning shade trees.

Sec. 105-23. Protected native trees.

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Live oak (*Quercus virginiana*),

Longleaf pine (*Pinus palustris*),

Pecan (*Carya illinoensis*),

Sabal (cabbage) palm (*Sabal palmetto*),

~~Slash pine (Pinus ellottii),~~

Southern magnolia (*Magnolia grandiflora*), and

~~Sycamore (Platanus occidentalis), and~~

~~Water oak (Quercus nigra).~~

Individual trees of these species having diameters of four~~eight~~ or more inches at breast height are protected (hereinafter referred to as "protected trees"). Other native trees and all nonnative trees are not protected.

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 - a. On private property, the ~~planning and zoning board~~coincident with the planning and zoning board's approval of a proposed development plan that is conditional on a tree permit application being approved, the city manager approves the issuance of a tree permit to a private landowner to remove or substantially alter a tree on a lot because not doing so would make the lot undevelopable for any principal structure (section 105-26(1)(c)).
 - b. On private property when no development is proposed or on city property, the city manager documents in writing his or her reasons for allowing removal or substantial alteration (sections 105-26(1)(c) and 105-26(2)(c)).

Sec. 105-25. Activities exempted from or requiring a tree permit.

- (1) A tree permit is not required for the following exempt activities:
 - a. Unprotected trees—The removal, relocation, or substantial alteration of:
 - Native trees not listed in section 105-23;
 - Native trees listed in section 105-23 that are less than four~~eight~~ inches in diameter at breast height;
 - Cultivated varieties of once native trees developed by selective breeding and sold by plant nurseries; and
 - Nonnative trees, including invasive species.
 - ~~Dead trees when the code enforcement officer inspects the trees and agrees they are dead.~~
 - b. As provided by State law (F.S. § 163.045), the pruning, trimming, or removal of a tree on a residential property if the property owner possesses documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree poses an unacceptable risk to persons or property. A tree poses an unacceptable risk if removal is the only means of practically mitigating its risk below moderate, as determined by the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017).
 - c. Pruning—Pruning of unprotected trees, and light pruning of protected trees that does not substantially alter the protected trees.

ed. Emergency—The removal or substantial alteration of any significantly-damaged, protected, non-patriarch heritage tree during or following a natural or man-made disaster (e.g., hurricane, tornado, high wind, flood, or forest fire) when the city commission or manager declares a state of emergency and determines that permitting requirements will hamper private or public work to restore safety and order to the city. ~~Permission~~ City permission is required to remove or substantially alter a patriarch heritage tree (section 105-24(1)). In the interest of expeditiously addressing damaged heritage trees, the city's oral permission is sufficient, and written permission is not required.

de. Highway and electric utility rights-of-way—The removal or trimming of protected trees by:

The Florida Department of Transportation along roads under its jurisdiction to maintain safe lines of sight at road intersections and alleys and horizontal clearance areas along roadways where errant vehicles leaving the roadway might travel.

The electric utility along power lines necessary for the maintenance of accepted public safety standards and system reliability.

(2) A tree permit is required for the following activities.

Any removal or substantial alteration of a protected tree not exempted in section 105-25(1). Some specific situations requiring a permit include:

Imminent hazard—The removal or substantial alteration of a protected tree when an applicant proposes that immediate action is required due to a condition endangering public safety or property.

Diseased or pest-infested tree—The removal or substantial alteration of a diseased or pest-infested, protected tree when an applicant proposes that doing so will prevent the spread of the disease or pests to healthy trees.

Storm-damaged tree—The removal or substantial alteration of a protected tree damaged by a storm for which the city commission or manager did not declare a state of emergency.

Tree in decline—The removal or substantial alteration of a protected tree that has lost vigor and displays pale green or yellow leaf color, small leaves, poor growth, leaf drop, or dieback of twigs and branches. A tree in decline is not a dead tree.

Sec. 105-26. Permits for removal, relocation, or substantial alteration of protected trees.

Any person wishing to remove or substantially alter a protected tree shall ~~make~~ submit an application to the code enforcement officer ~~on a tree application form provided by the officer.~~

A tree permit shall be issued to remove or substantially alter a protected tree only if such action is in compliance with these article II requirements and the section ~~109-5051~~ site plan requirements.

Substantial alteration of a protected tree shall be allowed only under a declared emergency (sections 105-24(1) and 105-25(1)(c)), when a permit is obtained in the case of an imminent hazard (sections 105-24(1) and 105-25(2)), or when a permit is obtained in a non-emergency or non-imminent hazard situation to eliminate limbs that encroach on an adjacent structure.

(1) Private property.

a. If the proposed tree removal or substantial alteration is in conjunction with proposed development the planning and zoning board reviews (e.g., a newly-proposed structure, the expansion of an existing structure where the footprint increases in size, the construction of a driveway or walkway, or other such development that disturbs the land surface), the ~~board~~ code enforcement officer shall implement these tree protection requirements at the time ~~the~~ the planning and zoning board reviews and decides to approve, conditionally approve, or disapprove the site plan.

- b. If the proposed tree removal or substantial alteration is not in conjunction with proposed development that the planning and zoning board reviews (e.g., tree removal due to tree roots affecting the structural integrity of a building foundation), the code enforcement officer, city manager, or a designee shall implement these tree protection requirements at the time he or she reviews and ~~decides to approve, conditionally approve,~~ makes a decision on the tree removal or disapprove the proposal, substantial alteration application. Only the city manager shall make decisions on patriarch heritage trees (subsection c).
- c. If the proposal is the removal or substantial alteration of a patriarch heritage tree, the code enforcement officer shall provide a copy of the tree application to the tree committee appointed by the city commission. The committee shall review the tree permit application and make a recommendation to the decision maker ~~(the planning and zoning board (subsection a) or the city manager (subsection b)),~~ city manager.

~~When the board is the decision maker, approval proposed removal or conditional approval to remove or substantially alter~~ substantial alteration of a patriarch heritage tree only in conjunction with a development plan for a privately-owned lot that is reviewed by the planning and zoning board, the city manager shall allow removal or substantial alteration of the heritage tree only be made when no principal structure could be legally built on the lot taking into consideration the location of the tree and such requirements as setbacks and minimum required size for single-family dwellings. Through the variance process the board of adjustment may consider reducing setbacks or minimum dwelling size if doing so would spare the tree.

~~When the~~ The city manager is the decision maker, the manager's ~~manager's~~ reasons for allowing removal or substantial alteration of a patriarch heritage tree shall be documented in writing.

(2) City property.

- a. A person wanting to remove or substantially alter a protected tree on city property adjacent to private property owned by the person (e.g., to create an entryway to a proposed driveway on private property) shall apply for a tree permit. Cost of the permit and tree removal or substantial alteration shall be borne by the applicant.
- b. A city department wanting to remove or substantially alter a protected tree on city property shall make a request to the code enforcement officer. To document the request, the code enforcement officer shall prepare a tree application for the proposed action. Removal or substantial alteration of the tree shall not occur unless the code enforcement officer, city manager, or one of their designees approves the removal or substantial alteration.
- c. If the proposal is the removal or substantial alteration of a patriarch heritage tree, the code enforcement officer shall provide a copy of the tree application to the city manager and tree committee appointed by the city commission. The committee shall review the tree permit application and make a recommendation. The city manager shall make a decision on the proposal and document in writing the reasons for allowing any removal or substantial alteration.

As a condition of approval, decision makers may require that certain protected trees or native trees listed in section 105-29 that are less than ~~four~~ eight inches in diameter at breast height be relocated from the area of proposed development to an undeveloped location.

Under a tree permit, thinning of healthy protected trees may be justified if selective removal of trees improves the development of remaining trees and allows them to grow faster and in a fuller, characteristic form.

To ensure that a tree permit is not prematurely issued for a proposed development that is never approved, the tree permit and building permit will be issued simultaneously.

Sec. 105-27. Protection of trees during building operations.

Within the drip line radius of a protected tree, the following activities shall not occur during development, redevelopment, or improvement: deposition of debris and fill; storage of gasoline, oil, paint, chemicals, and other toxic materials harmful to trees; and attachment of wire to trees.

Driveways and sidewalks of impervious concrete and asphalt may not be constructed within the drip line of protected trees.

Sec. 105-28. Utility easement trimming.

Electric utility companies and their contractors that perform vegetation maintenance and tree pruning or trimming within electric utility right-of-way corridors shall do so in accordance with the following requirements. As defined in State law (F.S. § 163.3209), "vegetation maintenance and tree pruning or trimming" means "the mowing of vegetation within the right-of-way, removal of trees or brush within the right-of-way, and selective removal of tree branches that extend within the right-of-way."

- (1) All tree management will be limited to what is necessary for the proper maintenance of existing and new utility facilities in order to provide safe and reliable utility service.
- (2) Prior to vegetation maintenance and tree pruning or trimming, the utility shall provide the city manager with a minimum of five business days' advance notice. Such advance notice is not required for vegetation maintenance and tree pruning or trimming required to restore electric service or to avoid an imminent vegetation-caused outage.
- (3) The electric utility shall meet with the city manager, or the manager's designee (e.g., code enforcement officer), to discuss and submit the utility's vegetation maintenance plan, including the utility's trimming specifications and maintenance practices. The plan shall identify any ~~patrlarch~~heritage trees that are proposed for trimming and the amount of trimming proposed.
- (4) Vegetation maintenance and tree pruning or trimming conducted by utilities shall conform to American National Standards Institute (ANSI) A300 (Part I)—2008 (R2014) pruning standards and ANSI Z133.1-2000 Pruning, Repairing, Maintaining, and Removing Trees, and Cutting Brush—Safety Requirements.
- (5) Vegetation maintenance and tree pruning or trimming conducted by utilities must be supervised by qualified electric utility personnel or contractors licensed to do business in the City of Apalachicola and trained to conduct vegetation maintenance and tree trimming or pruning consistent with these requirements or by certified arborists certified by the certification program of the International Society of Arboriculture. Trimming of patrlarch trees may only be performed by certified arborists.

Sec. 105-29. Reforestation fund.

Fees collected for the lawful removal of protected trees shall be placed in a reforestation fund maintained by the City of Apalachicola. (Fees for the administrative processing of tree permit applications (e.g., \$50.00 per application) and fines for the unlawful removal or substantial alteration of protected trees (section 105-30) shall not be placed in the reforestation fund.) Reforestation fund fees shall be spent to establish, acquire, install, and maintain, and promote a reforestation program on city property, primarily in parks, squares, and along highway and street corridors.

Following are: ~~The city, by resolution, is authorized to set and change the reforestation fund fees that shall be collected for removal of protected trees.~~

<u>Diameter at breast height of protected tree removed (inches)</u>	<u>Fee for each tree (\$)</u>
4 to 16	25
Greater than 16 to less than 35	35

35 and larger (patriarch tree)	1,000
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For a tree permit applicant not proposing to remove a patriarch tree, the maximum total reforestation fund fee collected for each lot covered by the application shall not exceed \$250.00.

For a tree permit applicant proposing to remove a patriarch tree, the maximum total fee and any corresponding reforestation fund fee collected for each lot covered for permits applied for in this article, which resolutions are incorporated by the application shall not exceed \$250.00 for the non-patriarch trees plus an additional \$1,000.00 for each patriarch tree, reference herein.

Sec. 105-30. Penalties for violations.

Any person that removes or substantially alters a protected tree before a tree permit is obtained shall be charged a doubled permit application processing fee (e.g., \$100.00) for an after-the-fact permit.

If an after-the-fact tree permit is not issued because the tree removal or substantial alteration is not in accordance with these tree protection regulations, a fine in the amount specified in section III.D.1 of this Code 101-143 shall be imposed. Each tree that is illegally removed or substantially altered is a separate offense.

Any person that illegally removes or substantially alters a patriarch tree shall be fined up to \$25,000.00.

Commercial tree care contractors or general contractors are required to be licensed by the city in order for them to conduct business within the city. Commercial tree care contractors or general contractors hired by the City of Apalachicola to complete tree removals or substantial alterations must show proof of commercial general liability insurance in the amount of \$1,000,000.00 per occurrence for bodily injury and property damage with a provision that does not allow cancellation without 30 days written notice to the city. Two or more violations of any provision of these tree protection requirements by any commercial tree care contractor or general contractor may result in revocation of such person's license to do business within the city.

Chapter 109 HISTORIC PRESERVATION

ARTICLE II. HISTORIC AND CULTURAL PRESERVATION REGULATIONS

Sec. 111-10109-46. Purpose and Intent.

The public health, safety and welfare require the harmonious, orderly and progressive development of land within the City of Apalachicola. The development of the land is a vital step in the process of community development. Once land has been developed, the correction of defects is costly and difficult. Substantial public responsibility is created by each new development, involving the maintenance of streets and storm water management systems and the provision of additional public services. As the general health, safety and welfare of the community are thereby affected by the development of land, it is in the direct interest of the public that site development be conveyed, designed and carried out in accordance with sound land and water management principles.

The purpose and intent of this chapter is to assure that new development within Apalachicola will not adversely affect the public's natural or financial resources, especially Apalachicola Bay or its tributaries.

Sec. 111-11109-47. Applicability.

This chapter establishes procedures and standards for the preparation, review and approval of plans to carry out development.

Sec. ~~111-12109-48~~, Procedures for site plan application, review and decision.

(1) *Pre-application conference.*

- a. It is recommended that the applicant meet with the city planner, building department and building official to discuss the proposed development prior to submitting a formal application. The purpose of this conference is to familiarize the applicant with minimum design guidelines and to minimize any potential adverse impacts of the proposed development on the city's natural or financial resources.

(2) *Application.*

- a. An approved site plan is required prior to the issuance of a building permit. It shall be considered unlawful for any person to construct, erect or alter a building or structure or to develop, change or improve land for which a site plan is required except in accordance with an approved site plan. Enforcement shall occur pursuant to Chapter III of this Code for failure to obtain a permit or for failure to follow a permit.
- b. The site plan shall be prepared in accordance with requirements contained in this section. For a plan to be placed on the agenda of the next planning and zoning board meeting, the plan must be received by the building department and considered complete no less than 30 days prior to the planning and zoning board meeting.
- c. The applicant shall submit four copies of all parts of the site plan. Electronic copies of site plans and building plans may also be submitted if available.

(3) *Review.*

- a. The city planner and building department shall review the site plan to determine whether all required information is included in the application. If any required information is missing, the building department shall inform the applicant of any information required to complete the application.
- b. All site plans for architectural compatibility shall be reviewed by the planning and zoning board sitting as the architectural review board.

(4) *Decision.*

- a. Based upon the information contained in the site plan application, the planning and zoning board shall approve, approve subject to stated conditions, or deny the site plan. Any person aggrieved by the decision of the planning and zoning commission may, in accordance with Chapter III, file a written appeal within the city commission.

(5) *Construction.*

- a. Upon site plan approval and issuance of a building permit, the development shall be built in accordance with the approved site plan and site regulations. Deviation from the approved site plan shall require the submission of an application for a revised site plan.

Sec. ~~111-13 109-49~~, Fees.

Application fees for site plan review, as adopted from time to time by the city commission, must be paid by the applicant at the time of application.

Sec. ~~111-14109-50~~, Time limit on approval.

Following approval of the site plan, the applicant shall have one year, unless to commence construction on the site. Notwithstanding the above time frame, site plans for multifamily development and new non-residential development shall be effective for two years. Any site where development has not commenced shall cause the site

plan to be re-evaluated by the appropriate bodies and any newly adopted regulations shall be imposed at the discretion of the city.

Sec. ~~111-15~~ 109-51. Site plan requirements.

(1) Site plans or any portion thereof involving engineering shall be certified, sealed, and prepared by and/or under the direct supervision of a professional engineer, qualified by training and experience into the specific technical field involved and registered or licensed to practice that profession.

(2) Site plans shall contain documents and maps indicating:

a. General Information:

- I. Name of project.
- II. Intended use of site.
- III. Legal description of the property, size of parcel in acres or square feet and the linear dimensions of the property.
- IV. Name, address and telephone number of the owner or owners of record.
- V. Name, address and telephone number of the owner's designated agent or attorney.
- VI. Names, addresses, signatures and registrations of the professionals preparing the plan.

b. Maps:

- I. Vicinity map, showing relationship of proposed development to the surrounding streets, wetlands and surface water bodies at a scale of not less than one inch equals 2,000 feet.
- II. Site plan map with date and north arrow at a scale not smaller than one inch equals 50 feet.
- III. Elevation survey and topography at one foot contour intervals, existing and proposed.
- IV. Building restriction lines (i.e., highway setback lines, easements, covenants, rights-of-way, and building setback lines, existing and proposed).
- V. Location of existing and proposed building and structure footprints.
- VI. Location, elevation, and dimensions and materials of existing and proposed drive areas, or other paving.
- VII. Location of existing and proposed fences by type of material (e.g., wood or metal), type of design (open or closed) and height.
- VIII. Location of existing and proposed walls by type of material (e.g., brick or masonry).
- IX. Location of each proposed, off-street parking space (regular and handicapped) and how they will be identified on site with paint or curb stops, including a diagram showing traffic circulation on site and access and egress to adjacent street.
- X. Location of proposed, designated loading and unloading zones.
- XI. Location of temporary and permanent structures and features proposed in the stormwater management plan.

XII. Species and size (inches diameter breast height) of existing protected trees and which of these trees are proposed to be removed, relocated, or substantially altered.

c. Proposed buildings and structures:

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- I. Number of stories.
 - II. Square footage grosses each floor.
 - III. Building height.
 - IV. Multi-family dwellings.
 - (I) Number and square footage of dwelling units and density (dwelling units per acre).
 - (II) Calculation of off-street parking spaces required by supplementary parking section showing the number of dwelling units and spaces.
 - V. Commercial. Calculation of off-street parking spaces required by Chapter IV Zoning District supplementary parking section showing:
 - (I) Projected number of employees on peak shift.
 - (II) If an eating and/or drinking establishment, seats and occupancy load and number of tables for service and number of stools at service counter.
 - (III) If an office, studio or financial institution, floor space
 - (IV) If a retail establishment, floor space devoted to merchandising.
 - (V) If a child care center, floor space.
- d. Lot coverage allowed by the zone and calculations showing proposed lot coverage. Materials used to cover surface drive areas, walkways, patios and other areas counting as lot coverage.
- e. New multi-parcel (e.g., subdivision), commercial, and multi-family developments:
- I. Existing Infrastructure (on-site, adjacent to site, and across or opposite any public right-of-way.)
 - Surface drive areas and median/curb cuts to access driveways.
 - Sidewalks, streets, alleys, and easements (note widths and type).
 - Size and location of nearest water mains, valves, and fire hydrants.
 - Sanitary sewer systems (size and invert elevations).
 - Power, telephone and cable lines.
 - II. Proposed streets, sidewalks, and surface drive areas:
 - If required, engineering plans and specifications including elevation and dimensions for streets, sidewalks, and surface drive areas (driveways, parking areas and storage areas).
 - Cross section of proposed street improvements
 - Fire lanes.
 - Locations of proposed surface drive areas, curb or median cut(s) to access driveways.
 - Internal traffic circulation plan, including directional arrows and signs to direct traffic flow.
 - Location of traffic-control signs and signalization devices.
 - Locations of sidewalks.
 - Coordination of walkways and driveway and their elevations with facilities in adjacent developments, including the elevation of the crown of the most adjacent road to ensure that lot filling and hardened surfaces are not elevated higher than local streets.
 - Proposed streets and alleys.
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- When applicable, the location of service roads and access roads extended onto the site.
- III. Proposed water and sewer facilities:
- Water. Size, material, and location of water mains, valves and fire hydrants. Engineering plans and specifications are required prior to the issuance of a building permit.
 - Sanitary sewer systems. Size, material, and location of lines. Engineering plans and specifications, with submittal of a profile where required, are required prior to the issuance of a building permit.
 - Any commitments, such as contributions to offset public facilities impacts.
 - Projected water usage in gallons per day, projected solid waste, projected number of school age children.
- f. Solid waste handling facilities. The location of the dumpster and access for refuse service collection, including dumpster pad screening, fencing and landscaping shall be identified.
- g. Dredge and fill. If any dredging or filling is intended in the development, a copy of the complete environmental resource permit application proposed for the Northwest Florida Water Management District shall be provided.
- h. Stormwater management plan requirements general:
- I. Sufficient information for the city to evaluate the environmental characteristics of the affected areas, the potential and predicted impacts of the proposed activity on wetlands and surface water, and the effectiveness and acceptability of those measures proposed for reducing adverse impacts.
 - II. If a State stormwater permit is required, the following shall be a part of the stormwater plan submitted to the city.
 - III. The design contained in any ten-two (10/2) self-certified general permit).
 - IV. A design that treats run off from the 25 year-24-hour duration storm event and ensures that post development runoff rates, volumes and pollutant loads do not exceed pre-development conditions:

The design contained in a complete application proposed to a State agency for:

A general permit or;

An environmental resource permits.

For proposed development not requiring a State stormwater permit, a plan to control surface water runoff including:

Temporary sediment control barriers and vegetative cover;

Permanent best management practices.

Sec. ~~109-24~~ 109-52. [Historic Apalachicola Design Guidelines.]

The historic design guidelines of the city, adopted by Ordinance No. 2013-03 on Aug. 6, 2013, are incorporated herein by reference as if fully set out at length, and a copy is on file and available for inspection in the offices of the city and a copy is on file and available for inspection in the offices of the city and may be accessed at the city's website, <https://www.cityofapalachicola.com/>.

Subpart B - LAND DEVELOPMENT CODE
Chapter 109 - HISTORIC PRESERVATION
ARTICLE II. SITE PLAN REVIEW REGULATIONS

ARTICLE I.H. IN GENERAL SITE PLAN REVIEW REGULATIONS

Sec. 111-1 through 111-9 *.....*

Insert new Sec. 111-10 through 111-15 from Chapter 109 as amended above.

First Reading on: 4/8/2025

Second Reading and Adoption on: 5/6/2025



Brenda Ash, MAYOR

ATTEST:



Sheneidra Cummings, CITY CLERK

