



## PROPOSED LAND DEVELOPMENT CODE AMENDMENT

### PROPOSED AMENDMENT

INTRODUCED BY:	Planning Department
REQUESTED ACTION:	<b>AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA AMENDING ARTICLE 37 OF THE LAND DEVELOPMENT CODE, NATURAL RESOURCE PROTECTION; SPECIFICALLY RESCINDING THE CURRENT SECTION 37.02, NATIVE CANOPY TREE PROTECTION, AND CREATING A NEW SECTION 37.02, UNINCORPORATED AMELIA ISLAND TREE PROTECTION AND REPLACEMENT, CREATING THE NASSAU COUNTY-AMELIA ISLAND TREE COMMISSION, CREATING THE AMELIA ISLAND TREE FUND, PROVIDING FOR THE AMELIA ISLAND TREE PLANTING PROGRAM, SETTING MINIMUM TREE PRESERVATION AND REPLACEMENT STANDARDS, DEFINING A SPECIMEN TREE; AMENDING ARTICLE 32 OF THE LAND DEVELOPMENT CODE, DEFINITIONS; PROVIDING FOR PENALTY; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.</b>

\*\*\* All required notices have been made. All copies of required materials are part of the official record and have been made available on the County's website and at the Planning + Economic Opportunity Department Office. \*\*\*

### SUMMARY OF REQUEST AND BACKGROUND INFORMATION

Over the course of the last five years, the County has been working through the process of amending the unincorporated Amelia Island tree protection ordinance. At the outset, the goal was to model tree protection standards from the City of Fernandina Beach, which would provide for more uniform tree protection on Amelia Island.

The Tree Working Group met 12 times between October 2016 and March 3, 2021 and at the latter meeting unanimously recommended the attached ordinance to the Planning and Zoning Board. Some Group members changed along the way, but remained a diverse composition including PZB members, a certified arborist, realtors, engineers, and environmentalists representing the Amelia Tree Conservancy. The presentation of differing points of view of Group members resulted in ongoing creative collaboration. The Group was staffed by five planning directors over time, but the driving force was County Planner II and landscape architect Sue Ann Alleger, who served as a sounding board, source of information, and diligent recorder for the Group. In addition the County Attorney provided ongoing guidance to the Group during their meetings. The Group's progress was slowed by staff turnover and then the pandemic. Planning Director Thad Crowe staffed the Group after Ms. Alleger left the County in February 2021. After Group Chair Bruce Jasinsky rotated off the PZB and therefore also the Group, PZB member Betsie Huben was elected chair and presided over the final consensus on the working draft ordinance. The final draft tree protection ordinance replaces the current Land Development Code Sec. 37.02, establishing the Nassau-Amelia Island Tree Committee (NAITC) and sets forth tree protection standards for unincorporated Amelia Island.

The Group found common ground in areas including two key strategic changes: 1) extending tree protection, which currently only applies to nonresidential, multi-family, and residential subdivisions to include single-family development, including those lots previously grandfathered; and 2) allowing flexibility and mitigation while in the end retaining or planting 100% of removed protected tree dbh (diameter at breast height around the trunk of the tree, which is how tree size is measured).



The table beginning on Page 2 summarizes substantive changes between the current and proposed tree ordinance.

Standard	Current Ordinance	Proposed Ordinance
Protected tree minimum dbh	6"	5"
Addition of specimen tree standards	N/A	<ul style="list-style-type: none"> <li>• Applies to 40" dbh live oaks, multi-trunk 60"</li> <li>• Requires public hearing of NC-AITC</li> <li>• Criteria include tree health, loss of economically viable use of property, no feasible alternatives</li> </ul>
Exemption Classification # 1 (exempt from permitting/site plan review)	<ul style="list-style-type: none"> <li>• Nursery trees</li> <li>• Removal of fallen dead/diseased trees</li> <li>• Removal of trees that endanger public or private property</li> <li>• Storm-damaged trees during &amp; 3 months after event</li> <li>• County ROW trimming</li> <li>• Trimming &amp; removal around utility lines by public utilities</li> </ul>	<ul style="list-style-type: none"> <li>• Pruning, trimming, removing trees on "residential properties" that present danger to persons or property, as determined by cert. arb. or Fl.-registered LA (HB 1159)</li> <li>• Nursery trees</li> <li>• Storm-damaged trees during &amp; 1 month after event</li> <li>• Minor maintenance with best practices</li> <li>• County ROW trimming</li> <li>• Trimming around utility lines by public utilities</li> <li>• Fallen trees</li> </ul>
Exemption Classification # 2 (permit & cert. arb. letter required)	<ul style="list-style-type: none"> <li>• Poor tree health</li> <li>• Tree restricts opening of street</li> <li>• Tree restricts utility or drainage facilities</li> <li>• Tree restricts reasonable use of property</li> <li>• Hazard</li> <li>• Thinning to reduce overcrowding (up to 25% of trees)</li> </ul>	<ul style="list-style-type: none"> <li>• Thinning to reduce overcrowding &amp; improve tree health (no percentage provided)</li> <li>• County ROW removal</li> <li>• Emergency purposes removal</li> </ul>
Tree preservation	45% of pre-development tree dbh – whole site	100% of tree dbh <u>outside</u> construction zone & limits of disturbance
Tree replacement/mitigation	If circumstances don't allow for the 45% preservation, this percentage can be met with replacement trees on a one-to-one tree dbh basis, as approved by PZB	<ul style="list-style-type: none"> <li>• Replace 25% of removed protected trees in construction zone &amp; limits of disturbance</li> <li>• Minimum of removed protected tree dbh amount must be preserved or planted on site</li> </ul>
Off-site mitigation (tree planting)	Allowed when site cannot accommodate, in public property or on private conservation easements, as approved by PZB	Allowed when site cannot accommodate, through Tree Fund/Fee-in-Lieu, as approved by BoCC with recommendation from NCAITC and Tree Bank Exchange, through DRC/Staff review on nearby properties under control of developer
Fill stockpiling & native soil	N/A	Required
Class I Development (existing SFR, duplex, MH)	Exempt	Not exempt, but Staff review allowed
Class II, III, & IV Development	Site Plan review (SP)	Part of PBSP, SP, SEP, PDP, or FDP
Site tree inventory required	Yes (For Class II, III, & IV)	Yes
Cert. Arborist required	Yes	Not for removal of 3 or less trees
Replacement tree min. size dbh	3", 10' tall, 5' wide	3", 10' tall, 5' wide



Standard	Current Ordinance	Proposed Ordinance
Species diversity requirement	N/A	Not more than 40% of one genus or 20% of one species
Fee-in-lieu/Tree Fund	N/A	Yes, determined by quotes from 3 retail nurseries
Tree Fund Utilization	N/A	Utilized for tree planting on public or private lands, funding tree-related studies & natural area assessments
Tree Fund Fee	N/A	Can be used for up to 50% of required replacement dbh
Tree preservation credits	80 <sup>th</sup> size percentile +: 125%	12"-24" dbh: 115% credit 24"-38" dbh: 125% credit 38"+ dbh: 150% credit Trees shading public space: 115% credit Credits not granted for areas not suited for planting (utility easements)
Tree Bank Exchange Area (off-site planting)	Allowed subject to PZB review	Allowed for unified developments through DRC review of SEP, Plat or similar means
County Tree Planting Program (optional)	N/A	Recommended by NCAITC & adopted by BoCC for public & private tree planting
Tree Protection	<ul style="list-style-type: none"> <li>TPZ tied to drip line (less than 6' out from the trunk) requires 6' TPZ radius, 6-20 feet out requires full drip line, &amp; 20" feet out requires 20'-foot radius</li> <li>TPZ barricades required but not specified</li> <li>TPZ prohibited activities: vehicle/equipment parking, material stockpiling, grading/grubbing, excavation/trenching, burning or burial of debris (entire site), dumping of construction wastes</li> </ul>	<ul style="list-style-type: none"> <li>TPZ – radius 6+ times trunk diameter</li> <li>TPZ barricades require 2'X4" posts – mesh or wood fence</li> <li>Mechanical trenching not allowed-only hand trenching and directional boring allowed</li> <li>No activity &amp; storage allowed in TPZ</li> </ul>
Tree Abuse	<ul style="list-style-type: none"> <li>No person shall "abuse, mutilate, or otherwise damage any protected tree"</li> <li>No signs attached to tree</li> </ul>	Prohibited, including hat-racking, topping, over-pruning (more than 30% of canopy), compaction by material storage, grade change, etc.)
"Waivers"	N/A	<ul style="list-style-type: none"> <li>By NAITC, limited to building setback reductions, building height increases, required parking reduction.</li> <li>By Planning Director, setback reductions, height increases, &amp; parking reduction – all limited to 5%</li> </ul>
Appeals	PZB	<ul style="list-style-type: none"> <li>PZB (interpretation)</li> <li>Code Enf. Board (violations)</li> </ul>
Violations	Obsolete reference	<ul style="list-style-type: none"> <li>Restoration plan required</li> <li>Inch-per-inch dbh replacement</li> </ul>

### **CRITERIA FOR CONSIDERATION**

#### **Application Conformance with Comprehensive Plan**

The following objective and policies of the Comprehensive Plan's Future Land Use Element support this amendment.

#### ***OBJECTIVE CS.02***

*The County shall protect natural communities and ecological systems that provide important natural functions for maintenance of environmental quality and wildlife habitats.*

#### ***Policy CS.02.01***



*The County shall maintain or expand regulations in the Land Development Code (LDC) that provide for tree protection standards on Amelia Island.*

*Policy CS.02.02*

*The County shall adopt regulations in the Land Development Code (LDC) that require clustering of development in order to preserve wetlands, important native vegetative communities, and other environmentally sensitive communities, by reducing or prohibiting development in the sensitive areas of the property.*

**OBJECTIVE CS.08**

*The County shall promote water and energy conservation strategies to support the protection of the County's natural resources*

*Policy CS.08.05*

*The County shall adopt provisions in the Land Development Code to promote the use of Florida Friendly Landscaping techniques and native or adapted plants in order to reduce potable water consumption for irrigation for new development.*

Staff comment: the objectives and policies above support a stronger tree ordinance that accomplishes both tree preservation and planting of the next generation of trees. This will pay off in natural resource, flooding prevention, and energy-saving dividends as trees provide absorption of rainfall and reduction of flooding, deliver shade for comfort and cooling, and serve as habitat for birds and other wildlife.

### **CRITERIA FOR CONSIDERATION**

Application Conformance with Land Development Code.

*Section 1.01. - Purpose and intent.*

*The purpose of this Code is to implement the county's comprehensive plan by establishing regulations, procedures and standards for review and approval of all development and use of land in the unincorporated portions of the county. Further, this Code is adopted in order to preserve and foster public health, safety and welfare; to facilitate the adequate and efficient provision of public facilities and services; and to conserve, utilize, and protect natural resources within Nassau County (emphasis added).*

*The intent of this Code is that the development process in the county be:*

- a. Efficient, in terms of time and expense;*
- b. Effective, in terms of addressing the natural resources and public facility implications of development; and*
- c. Equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and the consideration of the interests of the citizens of the county.*

Staff comment: natural resource preservation is an immediate byproduct of tree preservation.

### **RECOMMENDATION**

Staff recommends APPROVAL of new Land Development Code Section 37.02, Tree Protection, as presented in the draft ordinance.