

ORDINANCE NO. 2453

AN ORDINANCE AMENDING CHAPTER 105, GENERAL DEVELOPMENT STANDARDS, OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF PANAMA CITY, FLORIDA; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF PANAMA CITY, FLORIDA:

WHEREAS, the City of Panama City Commission has adopted the Panama City Comprehensive Plan within which are included goals, objectives, and policies related to the adoption of land development regulations; and

WHEREAS, Chapter 163, Part II, Section 3201, the Florida Statutes, requires the implementation of these goals, objectives, and policies through the adoption of consistent land development regulations; and

WHEREAS, Chapter 163, Part II, Section 3202, of the Florida Statutes requires each county and municipality to adopt or amend and enforce land development regulations that are consistent with and implement the adopted comprehensive plan within one (1) year after submission of the revised comprehensive plan for review to the state; and

WHEREAS, Chapter 105 of the Panama City Land Development Regulations addresses general provisions related to the implementation of the Land Development Regulations; and

WHEREAS, the Planning Board, in its capacity as the Local Planning Agency, considered this request, found it consistent with the goals, objectives and policies of the local Comprehensive Plan, and recommended approval at a properly advertised public hearing on June 11, 2012;

NOW THEREFORE, IT BE ORDAINED by the City Commission of Panama City, Florida, amends the Land Development Regulations as follows:

Section 1. Chapter 105 of the Land Development Regulations is to be amended to reflect the following changes:

(See Exhibit A)

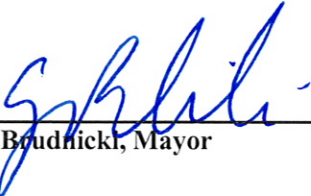
Section 2. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. This ordinance shall become effective upon its passage.

PASSED, APPROVED, AND ADOPTED at the regular meeting of the Commission of the City of Panama City, Florida on the 10th Day of July 2012.

CITY OF PANAMA CITY, FLORIDA

By  _____
Greg Boudhicki, Mayor

ATTEST:

 _____
Terri Lillard, City Clerk

EXHIBIT A

Chapter 105

DIVISION 3. TREE PROTECTION

Sec. 105-115. Generally.

No owner or developer, agent or representative shall cut down, destroy, remove or move, or injure or commit any act that would cause damage to any protected tree located on any property within the city without approval from the director.

Sec. 105-116. Protected trees and measurement.

(a) *Protected trees.* Protected trees shall include:

- (1) All dogwood and redbud trees with a DBH of three inches or more.
- (2) All other trees which have a DBH of eight inches or more.
- (3) All pine trees which have a DBH of 18 inches or more.

(b) *Definitions.*

- (1) The term "diameter at breast height" (DBH) is defined as the circumference in inches of the tree trunk divided by pi (3.141), measured at a height of 54 inches from the base of the tree.
- (2) The term "caliper" is defined as the circumference in inches of the tree trunk divided by pi (3.141), measured at the base of the trunk. Caliper is used to size nursery-grown trees.
- (3) The term "footprint" is defined as the outside perimeter of any structure.
- (4) The term "person" is defined to include any natural person, corporation, partnership, trust, or any other entity or association.

Sec. 105-117. Exceptions.

Trees otherwise protected may be removed, but only with the approval of the director, under the following circumstances:

- (1) *Single-family residential lots.* Single-family residential lots shall be exempt from the tree regulations within the footprint of any residential structure, including garage, carport, driveway and swimming pool. With regard to heritage, specimen, champion and historic trees protected by subsection (7) hereof, this exemption is limited to those circumstances where all setback requirements have been met.
- (2) *Other uses.* Commercial, multifamily residential, industrial, institutional, and recreational lots shall be exempt from the tree regulations within the footprint of the building structure, the required runoff retention area and the required parking area, except for historic, specimen, heritage or champion trees protected by section 105-121. A historic, specimen, heritage or champion tree may be removed only if it is in the footprint of the structure and where all setback requirements have been met. The director may give credit toward landscaping

EXHIBIT A

Ordinance 2453

43 requirements for existing trees preserved within the footprint if protected pursuant
44 to section 105-122. All protected trees to be removed or preserved shall be
45 shown on the site plan. The site plan shall also show buffer areas to be
46 preserved and new trees to be planted pursuant to article II of this chapter and
47 compliance with the landscape and buffer standards hereof.

48 (3) *Diseased, damaged or hazardous trees.* Trees that are visibly diseased or
49 damaged to the extent that the life of a tree has been virtually terminated or its
50 growth or foliage substantially impaired, or that constitute a threat to public safety
51 or damage to property may be removed.

52
53 (4) *Pruning and trimming.* Ordinary pruning or trimming of trees and tree limbs is an
54 exempt activity.

55
56 (5) *Emergency conditions and commercial tree growers.*

57 a. *Emergency waivers.* The city commission or its designated representative
58 may waive all or part of these requirements in the event of natural
59 disasters such as hurricanes, tornadoes, floods, or hard freezes. In such
60 cases, the period of waiver shall not exceed ten days, unless extended by
61 the city commission.

62
63 b. *Commercial tree growers.* Licensed plant and tree nurseries shall be
64 exempt from the terms and provisions of this subsection when trees
65 planted or growing on the premises of said licensee are so planted and
66 growing for sale to the general public in the ordinary course of business.

67
68 c. *Utility and public work operations.*

69 1. Tree pruning and tree removal by duly constituted communication,
70 water, sewer, electrical, or other utility companies or federal, state,
71 county, or municipal agencies providing like services, or engineers
72 or surveyors working under a contract with such utility companies
73 or agencies shall be exempt, provided the removal is limited to
74 those areas necessary for maintenance of existing lines or
75 facilities or for construction of new lines or facilities in furtherance
76 of providing utility service to its customers, and provided that the
77 activity is conducted in a manner to avoid any unnecessary
78 removal. The removal or pruning of trees in and around aerial
79 electrical utility lines shall not exceed the guidelines of the
80 National Electrical Safety Code necessary to achieve safe
81 electrical clearance. All pruning and trimming shall be done in
82 accordance with National Arborists Association Standards, except
83 as otherwise provided.

84
85 2. Public works projects by governmental agencies are exempt from
86 the tree regulations in the same manner as utility companies.

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EXHIBIT A

Ordinance 2453

88 (6) *Rights-of-way.* The clearing of a path for an existing or new road right-of-way is
89 exempt. The width of the path shall not exceed the right-of-way width standards
90 for each type roadway established in this Land Development Regulation.

91
92 (7) *Nuisance and/or exotic trees.* Trees that are declared nuisance and/or exotic
93 trees by ~~resolution of the city commission shall be exempt from the~~
94 ~~protective tree provisions contained herein. Trees shall be declared~~
95 ~~nuisances and/or exotic trees by the commission based on species; effect~~
96 ~~on native ecosystems; invasiveness; population; recommendation of the~~
97 ~~Florida Department of Environmental Protection; and/or other conditions~~
98 ~~which warrant consideration by the city commission~~ the Florida Exotic Pest
99 Plant Council (FLEPPC) in its latest list of invasive plant species.

100

101 **Sec. 105-118. Conditions for tree removal.**

102 (a) ~~No approval shall be granted to remove a tree if t~~The developer or
103 owner ~~has failed to shall~~ provide a site drawing which accurately depicts
104 protected trees on the site, including location, type of protected tree and
105 diameter in inches at breast height, in order to minimize the removal of
106 protected trees. The protected trees ~~so~~ depicted on the site drawing shall
107 ~~also~~ be marked on the site with "surveyor's ribbon" or other similar
108 material in order that the city's staff can confirm the accuracy of the site
109 drawing. ~~Within the discretion of the director, s~~Should the site drawing
110 presented be inaccurate or ~~should~~ the size of the tract be so substantial
111 that confirmation of the accuracy of the site presented would either work
112 an undue hardship on staff or result in an unreasonable expense to the
113 city, ~~said the~~ director may at his/her discretion require a tree survey of
114 the site, certified by an engineer, surveyor, landscape architect or
115 mapper, licensed in the State of Florida.

116
117 (b) Once the requirements of subsection (a), above, have been met, ~~no~~
118 ~~approval for the removal of a protected tree shall be granted unless~~
119 the developer or owner shall satisfy~~ies~~ one or more of the following
120 conditions:

121
122 (1) The use of the site cannot reasonably be undertaken unless specific
123 trees are removed or relocated.

124
125 (2) The tree is located in such proximity to an existing or proposed
126 structure that the safety, utility, or structural integrity of the structure is
127 materially impaired.

128
129 (3) The tree materially interferes with the location, servicing, or
130 functioning of existing utility lines or services and the lines may not
131 reasonably be relocated.

132
133 (4) The tree creates a substantial hazard to operators of motor vehicles
134 or bicycles and pedestrian traffic because of its location.

EXHIBIT A

Ordinance 2453

177 (g) No replacement trees with the potential to reach a height of 18 feet or greater
178 shall be planted or otherwise located under or within ten feet on either side of overhead utility
179 lines.

180

181 **Sec. 105-120. Tree replant list.** The following is the tree replant list.

182 (1) *Small Trees*

- 183 a. Crepemyrtle (*Lagerstroemia indica*).
 - 184 b. Devil's walkingstick (*Aralia spinosa*).
 - 185 c. Fringe tree (*Chionanthus virginicus*).
 - 186 d. Goldenrain tree (*Koelreuteria elegans*).
 - 187 e. Holly, dahoon (*Ilex cassine*).*
 - 188 f. Hop-hornbeam (*Ostrya virginiana*).
 - 189 g. Hornbeam (*Carpinus caroliniana*).
 - 190 h. Plum, wild (*Prangustifolia*).
 - 191 i. Magnolia, oriental (*Magnolia* spp.).
 - 192 **j. ~~Mimosa~~ (*Albizia julibrissin*).**
 - 193 **~~l.~~** Sparkleberry tree (*Vaccinium arboreum*).
 - 194 k. Plum, American (*Prunus americana*).
 - 195 l. Fringe tree, Chinese (*Chionanthus retusa*).
 - 196 m. Smooth redbay (*Persea borbonia*).*
 - 197 n. Pear, Bradford (*Pyrus calleryana* Bradford).
 - 198 o. Glossy privet (*Ligustrum lucidum*).
 - 199 p. Loquat (*Eriobotrya japonica*).
 - 200 q. Red buckeye (*Aesculus pavia*).
 - 201 r. Hawthorns (*Crateagus* spp.).
 - 202 s. Silverbell (*Halesia coroliniana*).
 - 203 t. Yaupon holly (*Ilex vomitoria*).
 - 204 u. Ashe magnolia (*Magnolia ashei*).
 - 205 v. Crab apple (*Malus angustifolia*).
 - 206 w. Wax myrtle (*Myrica cerifera*).
 - 207 x. Flatwoods plum (*Prunus umbellata*).
 - 208 y. Hoptree (*Ptelea trifoliata*).
 - 209 z. Myrtle oak (*Quercus myrtifolia*).
 - 210 aa. Virginia stewartia (*Stewartia malacodendron*).
 - 211 bb. Rust blackhawk (*Viburnum rufidulum*).
 - 212 cc. Dogwood.
- 213 (Trees numbered r.--cc. are native.)
- 214 (Trees numbered p.--cc. are suitable for planting underneath utility lines.)

215

216 (2) *Medium and Large Trees*

EXHIBIT A

Ordinance 2453

- 217 a. Ash, white (local) (*Fraxinum americana*).*
- 218 b. Birch, river (*Betula nigra*).*
- 219 c. Basswood (*Tilia caroliniana*).
- 220 d. Catalpa, southern (*Catalpa bignonioides*).
- 221 e. Cedar, Atlantic white (*Chamaecyparis thyooides*).
- 222 f. Southern red [cedar] (*Juniperus silicicola*).
- 223 g. Cherry laurel (*Prunus caroliniana*).*
- 224 h. Cottonwood (*Populus deltoides*).
- 225 i. Cypress, pond (*Taxodium ascendens*).
- 226 j. Bald cypress (*Taxodium discithum*).
- 227 k. Elm, Florida (*Ulmus americana floridana*).*
- 228 l. Elm, winged (*Ulmus alata*).*
- 229 m. Hickory (*Carya spp.*).*
- 230 n. Loblolly bay (*Gordonia lasianthus*).
- 231 o. Maple, Florida (*Acer barbatum floridanum*).*
- 232 p. Mulberry, red (*Morus rubra*).
- 233 q. Oak, post (*Quercus stellata*).*
- 234 r. Oak, Shumard (*Quercus shumardii*).*
- 235 s. Oak, southern red (*Quercus falcata*).*
- 236 t. Oak, swamp chestnut (*Quercus michauxii*).*
- 237 u. Oak, white (*Quercus alba*).*
- 238 v. Live oak (*Quercus virginiana*).
- 239 w. Palm, cabbage (*Sabal palmetto*). (Note: Palm trees are acceptable only if
240 approved by the director.)
- 241 x. Palm, pindo (*Butia capitata*).
- 242 y. Persimmon (*Diospyros virginiana*).
- 243 z. Pine, spruce (*Pinus glabra*).
- 244 aa. Sweetbay (*Magnolia virginiana*).*
- 245 bb. Gum, sweet or red (*Liquidambar styraciflua*).
- 246 cc. Tulip tree (*Liriodendron tulipifera*).
- 247 dd. Tupelo, water (*Nyssa aquatica*).
- 248 ee. Walnut, black (*Juglans nigra*).*
- 249 ff. Waxmyrtle (*Myrica cerifers*).*

*Denotes shade trees.

251 Source: Native Trees for North Florida, Florida Cooperative Extension Service,
252 University of Florida.

253
254 **Sec. 105-121. Historic, specimen, champion, and heritage trees.**

- 255 (a) A historic tree is one that has been designated by the city commission as
256 one of notable historical interest and value to the city because of its
257 location or historical association with the community.

EXHIBIT A

Ordinance 2453

300 (1) If the drip line is less than six feet from the trunk of the tree, the zone shall
301 be that area within a radius of six feet around the tree.

302
303 (2) If the drip line is more than six feet from the trunk of the tree, but less than
304 20 feet, the zone shall be that area within a radius of the full drip line
305 around the tree.

306
307 (3) If the drip line is 20 feet or more from the trunk of the tree, the zone shall
308 be that area within a radius of 20 feet around the tree.

309
310 (c) *Development prohibited within the tree protection zone.* All development activities,
311 except those specifically permitted by paragraph e below, shall be prohibited within
312 the protection zone of any protected tree. This prohibition shall include vehicular
313 parking and storage of materials within the tree protection zone.

314
315 (d) *Fencing of tree protection zone.* Prior to the commencement of construction, the
316 developer shall enclose the entire tree protection zone within a fence or similar
317 barrier as follows:

318
319 (1) Wooden or similar posts at least 1.5 x 3.5 inches shall be implanted in the
320 ground deep enough to be stable and with at least three feet visible
321 above ground.

322 (2) The protective posts shall be placed not more than six feet apart and shall
323 be linked together by a rope or chain.

324
325 (e) *Permitted activities within the tree protection zone.*

326
327 (1) Trenching by utility companies shall be allowed except where the trees are
328 historic, specimen, champion, or heritage, in which event the excavation shall
329 be tunneled.

330
331 (2) Sodding and ground cover: Placement of sod or other ground covers
332 including ground surface preparation for such covers.

333
334 **Sec. 105-123. Preservation of native vegetation.** In addition to the tree preservation
335 requirements, development sites shall comply with the following requirements for the
336 preservation of native shrubs and ground covers:

337
338 (1) Within the conservation or special treatment zone, 25 percent of the site
339 populated by native shrubs or ground cover shall be preserved.

340
341 (2) Within all other districts, a minimum of ten percent of the total area of the site
342 populated by native shrubs or ground cover shall be preserved.

EXHIBIT A

Ordinance 2453

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- (3) Native shrubs and ground cover on a site may be used to satisfy the buffer and vehicular landscaping requirements of article II of this chapter.

Sec. 105-124. Preservation of protected trees and native vegetation as grounds for reduction in required parking.

- (a) A reduction of required parking spaces may be required by the director when the reduction would result in:

- (1) The preservation of a protected tree, or
- (2) The preservation of native shrubs and ground cover in a quantity exceeding the minimum requirements of section 105-123.

- (b) The following reduction of required parking shall apply if it prevents the removal of a protected tree or native vegetation that is located within the area designated as a vehicular use area. The following reduction schedule shall apply:

REDUCTION SCHEDULE

NUMBER OF REQUIRED PARKING SPACES	REDUCTION IN REQUIRED PARKING SPACES ALLOWABLE
1—4	0
5—9	1
10—19	2
20 or more	10% of total number of spaces (total reduction regardless of number of trees or percentage of native vegetation preserved)

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- (c) The director may grant further reductions when necessary to save protected trees.

Sec. 105-125. Unauthorized tree removal.

- (a) All sanctions and remedies in this section are cumulative to each other and to all other provisions. No protected tree shall be removed unless the removal is authorized by a removal permit or development order from the City of Panama City.
- (b) Any person who removes a protected tree without authorization by the city shall be subject to a penalty not to exceed \$1,000.00 per tree, or

EXHIBIT A

Ordinance 2453

374 confinement in jail for a period not to exceed 60 days, or both, and the
375 revocation of his license to do business in the City of Panama City for a
376 period of six months.

377
378 (c) Should any owner, developer, or contractor remove a protected tree
379 without authorization by the city, any development order issued or
380 building permit previously issued by the city shall be revoked and, if not
381 issued, then denied, until the owner has satisfied all mitigation
382 requirements.

383
384 (d) Except for "clearing of land" as defined and provided for in section 102-2
385 or as otherwise provided herein, should an owner or developer remove
386 any tree without authorization, the owner or developer shall pay to the city
387 a sum of money equal to twice the amount of mitigation damages
388 determined on the basis of diameter inches of the trees removed, plus
389 any revenues that the tree or trees would have produced if sold at a
390 prevailing market value. The money limitation set forth in section 105-
391 119(e)(1) shall have no application to the amount so determined above.

392

393 **Sec. 105-126. Protection of trees on public lands.**

394 The Panama City Department of Leisure Services shall be responsible for the care,
395 maintenance, and preservation of all trees and landscaping on city properties. The Department
396 of Leisure Services is authorized to implement community programs and a community forestry
397 plan to foster awareness and support for the preservation of trees and other native plant life.

398

399 **Sec. 105-127—105-150. Reserved.**