



Indian Harbour Beach City Hall  
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## Agenda for the Planning & Zoning Board Joint Ad Hoc Tree Ordinance Committee Workshop

6:00 p.m. September 20, 2023

LTC NORMAN C. HAYES AND MARILYN C. HAYES  
COUNCIL CHAMBER

1. Call to order
2. Pledge of allegiance followed by a moment of silent meditation
3. Roll call
4. Review of Draft Tree Preservation Ordinance No. 2023-11
5. Comments by Board or Committee Members
6. Adjournment

ALL PERSONS WISHING TO BE HEARD SHOULD APPEAR IN PERSON AT THESE HEARINGS OR SEND WRITTEN COMMENTS TO THE CITY CLERK. ALL PERSONS AND PARTIES ARE HEREBY ADVISED THAT IF THEY SHOULD DECIDE TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT THE PUBLIC MEETING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE, HE OR SHE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. FSS 286.0105. IN COMPLIANCE WITH THE AMERICAN WITH DISABILITIES ACT (ADA), ANYONE WHO NEEDS A SPECIAL ACCOMMODATION FOR THIS MEETING SHOULD CONTACT THE CITY CLERK AT 321-773-3181 AT LEAST 48 HOURS IN ADVANCE OF THIS MEETING.



## City of Indian Harbour Beach Staff Report

### Planning and Zoning Board and Ad Hoc Tree Ordinance Committee Joint Workshop Agenda Item

Review of Draft Tree Preservation Ordinance No. 2023-11

**Workshop Date:** September 20, 2023

**Attachment:** Draft Ordinance No. 2023-11 and Rules of the Ad Hoc Tree Ordinance Committee

#### **Staff Recommendation:**

The Planning and Zoning Board is requested to provide feedback to the Ad Hoc Tree Ordinance Committee regarding draft Ordinance No. 2023-11.

#### **Background Information:**

On May 10, 2022, the City Council directed staff to prepare a draft tree preservation ordinance that would include a permitting process for removal of trees. On June 14, 2022, the City Council directed staff to research the feasibility of the City becoming a Tree City USA member. On July 26, 2022, staff reported the City could meet all four criteria for Tree City USA but would need to establish a Tree Board or hire an arborist to oversee an Urban Forestry department. On August 9, 2022, the City Council voted to establish a Tree Preservation Board.

Since the roles and responsibilities of a Tree Board would be part of a Tree Preservation Ordinance, staff in consultation with City Attorney Bohne, recommended the City Council appoint an Ad Hoc Tree Committee to develop a recommended Tree Preservation Ordinance. Once the Tree Preservation Ordinance is adopted, the Ad Hoc Tree Committee would be disbanded and the permanent Tree Preservation Board would be filled.

The Ad Hoc Tree Ordinance Committee rules (as attached) were approved by the City Council on September 13, 2022. The Committee members were appointed by the City Council on October 25, 2022.

Based on feedback given to the Ad Hoc Tree Committee and proffered separately by City Attorney Bohne, the draft ordinance will be revised and submitted at a later date to the Planning and Zoning Board for official review and recommendation to the City Council.

## **Rules of the Tree Ordinance Committee**

### Role

- Ad hoc advisory committee to the City Council

### Duties/Responsibilities

- Development of a draft Tree Preservation Ordinance that shall include a Tree Preservation Board.
- Development of the 2023 inaugural Indian Harbour Beach Arbor Day Celebration event.

### Number of Members

- Five members ideally comprised of representatives of the following segments of the community:
  - Residents (2)
  - Commerce
  - Development
  - Landscaping
- Two alternates, designated as alternate 1 and alternate 2.
- City Manager shall serve as an ex officio member of the Committee with no voting rights.

### Quorum and Conduct of Meetings

- Five members
- Alternate members may vote and are counted as part of the quorum in meetings when a regular member is not in attendance. The alternate is elevated to a temporary voting member for that meeting.
- To conduct business of the committee, a quorum must be present. A quorum will exist when a simple majority (3) voting members are present. A simple majority of those present is needed to pass a vote.
- The Committee shall organize itself at their first meeting and select a Chair and Vice-Chair.
- The Committee may reorganize itself at any subsequent meeting as long as said reorganization is an agenda item.
- The meeting shall be chaired by the Chair of the Committee, Vice-Chair of the Committee (during her/his absence, or any member of the committee (when the Chair and Vice-Chair are absent).
- The committee shall abide by the Florida Sunshine and Public Records Laws.
- The Committee may adopt any rule for conduct of the meetings that do not conflict with State Law or the Indian Harbour Beach Code of Ordinances.
- Agendas shall be emailed to committee members and posted on the IHB bulletin board and website no later than 5 calendar days prior to meetings.
- The Chair (or Vice-Chair upon the absence of the Chair) will coordinate with the City Manager the setting of the agenda prior to said distribution and posting. The City Manager shall have the final say on agenda items.
- The meeting shall be open to the public and the public shall be able to address the committee under audience participation.

### Term of Appointment

- Indefinite
- Committee shall cease to exist once a Tree Preservation Ordinance (that includes a Tree Board) is adopted.

### Staff Support

- The City Manager shall assign a staff person to record and draft minutes of each meeting.

**Draft ORDINANCE NO. 2023-11**

**AN ORDINANCE OF THE CITY OF INDIAN HARBOUR BEACH, BREVARD COUNTY, FLORIDA AMENDING CHAPTER 107 RELATING TO ESTABLISHMENT OF A TREE PRESERVATION CODE, ESTABLISHMENT OF A TREE PRESERVATION BOARD; PROVIDING FOR SEVERABILITY, REPEAL, CODIFICATION AND AN EFFECTIVE DATE**

**WHEREAS**, the City Council of the City of Indian Harbour Beach, Florida, acknowledges the environmental, societal, and aesthetic benefits of trees on private and public properties; and

**WHEREAS**, the City Council of the City of Indian Harbour Beach, Florida, desires to maintain and expand the existing tree canopy within the City; and

**WHEREAS**, the City Council of the City of Indian Harbour Beach, Florida, desires to become a Tree City USA member which requires the City to adopt a Tree Preservation Ordinance and have a Tree Preservation Board; and

**WHEREAS**, the City Council of the City of Indian Harbour Beach, Florida, previously established an Ad Hoc Tree Ordinance Committee to develop a proposed Tree Preservation Ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Indian Harbour Beach, Brevard County, Florida, that:

**Section 1.** A new section 107-35 is hereby added to Chapter 107 of the Code of Ordinances of the City which new section shall read as follows:

**Sec. 107-35. Declaration of legislative intent and public policy**

- (1) These researched-based regulations shall be known and may be referred to as the City of Indian Harbour Beach Regulations for Tree Maintenance and Preservation.
- (2) The purpose of this section is to perpetuate the protection, preservation, and conservation of existing trees as an effective means of conserving energy and to preserve trees to improve the aesthetic quality of the City thereby promoting the health and general welfare of the citizenry. Using research-based practices and studies that are readily accessible and publicly available, it is the intent of this Chapter to
  - (a) Enhance the community's appearance and promote civic pride.
  - (b) Enhance and protect property values.
  - (c) Increase the economic and aesthetic value of developed and undeveloped properties.

- (d) Promote landscaping methods that provide for the preservation of existing plant communities, re-establishment of native plant communities, and Florida-Friendly concepts to promote water conservation.
- (e) Preserve existing natural trees and vegetation and incorporate native plants, plant communities, and ecosystems into landscapes where possible.
- (f) Encourage residents to select desirable tree species for Indian Harbour Beach.
- (g) Provide citizens with psychological relief from the increasing complexities of a manmade suburban environment.
- (h) Assist in public information, the education of its citizens, and the effective implementation of this Chapter.
- (i) Educate residents about the following beneficial properties of trees:
  - 1) Improve air and water quality through such natural processes as photosynthesis and mineral uptake.
  - 2) Produce oxygen and reduce carbon dioxide concentrations in the air.
  - 3) Trap and filter out ash, dust, and pollen in the air.
  - 4) Reduce air, noise, heat, and chemical pollution.
  - 5) Provide shade and energy conservation.
  - 6) Reduce the urban heat island effect of concrete and pavement.
  - 7) Reduce the temperature of the microclimate through the process of evapotranspiration.
  - 8) Reduce the use of water and fertilizers needed to maintain non-native trees and plants.
  - 9) Prevent erosion by stabilizing the soil through its root system and by breaking the force of raindrops pounding upon soil surfaces.
  - 10) Reduce the quantity of surface runoff and reduce the percentages of impervious surfaces through canopy interception.
  - 11) Purify water by removing the nutrients from waters passing through the ground from the surface to the Indian River Lagoon.
  - 12) Provides essential habitat for wildlife.
  - 13) Can provide a windbreak to nearby structures.

**Section 2.** A new section 107-36 is hereby added to Chapter 107 of the Code of Ordinances of the City which new section shall read as follows:

**Sec. 107-36 Definitions**

**canopy interception** - the rainfall that is intercepted by the canopy of a tree and successively evaporates from the leaves.

**canopy tree** – A tree having a high canopy with a mature width greater than 4 meters.

**certified arborist** – An arborist certified by the International Society of Arboriculture (ISA).

**champion trees** - individual trees which are exceptional examples of their species because of their enormous size, great age, rarity, or historical significance.

**cold tolerant** – The ability of a plant to tolerate cold conditions.

**common name** - A name based on the normal language of everyday life.

**DBH** – Diameter, measured in inches at breast height (4.5 feet above the ground).

**drought tolerant** - Plant species that will survive on natural rainfall without supplemental irrigation after a period of establishment.

**easement** - the grant of a nonpossessory property interest that grants the easement holder permission to use another person's land. Easement itself is a legal term for a type of property right held by the users of the easement.

**espalier** – Trained to grow flat against a support such as a wall or a trellis.

**evapotranspiration** - the process by which water is transferred from the land to the atmosphere by evaporation from the soil and other surfaces and by transpiration from plants.

**flood tolerant** – Plants able to withstand excessively wet and flooded conditions for several days to a few weeks.

**Florida-friendly plants** - The plant will thrive in our local climate and soil, requiring little care. Florida Friendly plants however do not necessarily need to be native plants and are susceptible to becoming invasive.

**Florida native plants** - A species occurring within the state boundaries prior to European contact, according to the best available scientific and historical documentation.

**full sun** – More than six hours of direct sun per day.

**impervious surfaces** - those surface areas which either prevent or retard saturation of water into the land surface and cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions preexistent to development.

**invasive species** - Introduced organisms that cause harm to the environment, the economy, and/or human health. Often displacing native species, these invaders skew the delicate balance between animals, plants, and important processes such as water flow and fire.

**keystone species** - A species on which other species in an ecosystem largely depend, such that if it were removed the ecosystem would change drastically. The 5% of native plants that provide 75% of the food that supports the terrestrial food web.

**microclimate** – the climate of a very small or restricted area, especially when this differs from the climate of the surrounding area.

**mitigation plan** - A plan submitted to the City detailing the planned course of action from removing a tree requiring a permit under this Section. Said course of action can be an installation of replacement tree(s) or a payment into the City's Tree Mitigation Account.

**non-native plants** - Also referred to as exotic or alien, are plants that have been introduced to an area from their native range, either purposefully or accidentally.

**palm tree** – A tropical plant consisting of a straight tall trunk, no branches, and many large leaves at the top of the trunk in the Arecaceae family of perennial flowering plants.

**perennial** – A plant that can live for three or more growing seasons.

**plant community** – The combination of trees and plants in a specific location which interact with each other and with the animal populations and the physical environment.

**pleached** – Denoting or consisting of branches that are entwined or interlaced to form a hedge or provide cover for an outdoor walkway.

**problem trees** – Trees that are not a good long-term fit for a location for a multitude of reasons including, but limited to: “wrong tree, wrong place”; insect damage; disease; lightning damage; wind damage; vandalism; incompatible soil composition; etc.

**protected trees** - Mature trees, excluding palm trees, with a diameter at breast height (DBH) of 10 inches or more, any replacement tree, and any tree that is represented in a landscape plan, street tree planting plan, or other planning documents for the purposes of securing an approved building permit, clearing permit, or certificate of occupancy.

**replacement trees** – A tree that is planted after a protected tree is removed. Refer to Sec. 107-41.

**salt-tolerant** – A plant that can withstand, without significant adverse effects, moderate or high concentrations of salt in water on its leaves or in the soil within reach of its roots.

**scientific name** – The genus and species.

**stormwater management area** - an area designed and used for the temporary or permanent storage of stormwater runoff primarily from impervious surfaces like parking lots, driveways, and rooftops.

**structural pruning** – Pruning that focuses on improving the architecture of the branches within the crown of a tree by maintaining one main trunk and reducing stems that compete with it.

**sun tolerant** – Able to grow in full sun conditions.

**topiary** – The training of living trees and shrubs into artificial, decorative shapes.

**tree** – A perennial plant with an elongated stem or trunk with supporting branches and leaves.

**tree mitigation account** – A simplified means of describing a miscellaneous revenue account that mitigation or penalties receipts are received and then used to offset a budget amendment to a Public Works Department expenditure account used for maintenance of trees on City property.

**tree topping** – The practice of removing whole tops of trees or large branches and/or trunks from the tops of trees.

**wind resistant** – Plants that are less likely to become damaged during storms.

**Section 3.** A new section 107-37 is hereby added to Chapter 107 of the Code of Ordinances of the City which new section shall read as follows:

**Sec. 107-37 Tree Preservation Board**

- (1) **Purpose:** The City of Indian Harbour Beach, Florida hereby creates a City Tree Preservation Board.
- (2) **Membership:** The City Tree Preservation Board shall consist of five voting members and two alternates to be appointed by the City Council. The members of said board shall be residents of the city and shall serve at the pleasure of the City Council. Voting membership ideally should be comprised of representatives of the following segments of the community:
  - **Residents (2)**

- Commerce
- Development
- Landscaping

(3) Term of Office: The initial appointments to the City Tree Preservation Board shall be as follows:

- Two members appointed for a term of three years.
- Two members appointed for a term of two years.
- One member appointed for a term of one years

Thereafter all appointments shall be made for a term of three years and any member may be reappointed from term to term upon approval of the City Council. Appointments to fill any vacancy shall be for the remainder of the unexpired term of office. Any member who fails to attend two of three successive meetings without cause and without prior approval of the Chairperson shall automatically forfeit her or his appointment and the City Council shall promptly fill such vacancy.

(4) Compensation: Members of the Tree Preservation Board shall serve without compensation.

(5) Meetings: The Tree Preservation Board shall establish a regular meeting schedule no less than once a quarter.

(6) Operation: Members of the Tree Preservation Board shall annually elect a chairperson and vice-chairperson by majority vote to preside over the board's meetings. The chairperson and vice-chairperson may take part in all deliberations and vote on all issues. A majority of the members shall be a quorum for the transaction of business.

(7) Duties and Responsibilities: The Tree Preservation Board shall have the following duties and responsibilities:

- (a) Plan and host Indian Harbour Beach's annual Arbor Day Ceremony.
- (b) Promote best practices in tree selection, planting, care, and trimming.
- (c) Promote the identification, preservation, and protection of champion trees.
- (d) Consult with City staff, upon request, regarding the care and maintenance of trees on City property.
- (e) Develop and present annually a written community tree management program and supporting work plan with which, upon acceptance by the City Council, shall constitute the official Comprehensive Tree Plan for the City of Indian Harbour Beach, Florida.
- (f) Make recommendations to the City Council upon any matter coming within the scope of its work, as deemed necessary.
- (g) Other duties as assigned by the City Council.

**Section 4.** A new section 107-38 is hereby added to Chapter 107 of the Code of Ordinances of the City which new section shall read as follows:



## **Sec. 107-38. Applicability and exemptions**

### **(1) Applicability.**

This article applies to trees on public and private property.

### **(2) Exemptions**

- (a) Trees with less than a Diameter at Breast Height (DBH) of 4 inches are exempt from the provisions of this Chapter.
- (b) Trees that are determined by the City to be dead are exempt from the permit and fee requirements of this Section.
- (c) Non-native fruit trees cultivated or grown for the specific purpose of producing edible fruit, including, but not limited to mangos, avocados, or species of citrus.
- (d) Government owned preserve and parks lands.
- (e) Utility companies authorized to provide utility service may remove protected tree(s) that endanger public safety and welfare by interfering with utility service in an existing utility easement or public right-of-way, provided work is done by or under the control of the operating utility company and said company has received all necessary licenses or permits to provide utility service within the easement.
- (f) During the period of locally declared emergencies, such as a hurricane, flood, or any other natural disaster, the requirements of this Section may be temporarily waived by the City Manager, so that private or public work to restore order in the City will in no way be hampered.
- (g) Single-family detached residential property
  - (1) The following exemption is found in Florida Statutes 163.045 Tree pruning, trimming, or removal on residential property
    - (a) For purposes of this section, the term:
      - (1) “Documentation” means an onsite assessment performed in accordance with the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017) by an arborist certified by the International Society of Arboriculture (ISA) or a Florida licensed landscape architect and signed by the certified arborist or licensed landscape architect.
      - (2) “Residential property” means a single-family, detached building located on a lot that is actively used for single-family residential purposes and that is either a conforming use or a legally recognized nonconforming use in accordance with the local jurisdiction’s applicable land development regulations.
    - (b) A local government may not require a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on a residential property if the property owner possesses documentation from an arborist certified by the ISA 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) A local government may not require a property owner to replant a tree that was pruned, trimmed, or removed in accordance with this section.
- (d) This section does not apply to the exercise of specifically delegated authority for mangrove protection pursuant to Florida Statutes 403.9321-403.9333.

**Section 5.** A new section 107-39 is hereby added to Chapter 107 of the Code of Ordinances of the City which new section shall read as follows:

**Sec. 107-39. Permit required to remove trees**

(1) Permit required for tree removal.

Except as provided for in the Chapter, no person shall, directly or indirectly, cut down, substantially alter, destroy, remove, relocate, damage, or authorize any such act involving a protected tree situated on land within the city, without first obtaining a tree removal permit.

(2) No permit shall be required to remove invasive or undesirable species listed under Sec. 107-10 and Sec. 107-46.

**Section 6.** A new section 107-40 is hereby added to Chapter 107 of the Code of Ordinances of the City which new section shall read as follows:

**Sec. 107-40. Permit procedure and criteria for issuing permits**

(1) Permits for the removal or relocation of a protected tree shall be obtained by filing an application with the Building Department. Approval of the application and issuance of a tree removal permit shall be required prior to any changes to an existing developed site.

(a) Application for permits can be found on the City's website or obtained at City Hall.

(2) No tree removal permit shall be issued unless the Building Official or her/his designee finds that at least one of the following criteria is satisfied with respect to each protected tree designated for removal:

(a) The tree is located within an existing or proposed right-of-way.

(b) The tree is located within an existing or proposed easement or stormwater area provided that the area is reasonably accessible for the service or use shall it be considered for purposes of determining whether there is a necessity for tree removal.

(c) The tree creates or will create a safety or health hazard or a nuisance with respect to existing or proposed structures or vehicles or pedestrian routes and there is no reasonable alternative to relocate or reconfigure the improvements. The Building Official or her/his designee may require verification of claim(s) to be provided by a statement from a certified engineer or certified arborist in the State of Florida.

(d) The tree interferes with the installation, delivery, or maintenance of proposed or existing utility services to the site.

(e) The tree is confirmed by the Building Official, her/his designee, or by a certified arborist to be diseased, severely injured, non-viable (i.e. dead), or in danger of falling.

- (f) The tree unreasonably prevents the development of a lot or parcel of the physical use thereof. However, a tree removal permit shall not be granted where the applicant has failed to design and locate the proposed improvements so as to minimize the removal of trees consistent with the permitted use of the lot or parcel under the zoning ordinance as amended.
- (3) In lieu of submitting a tree removal permit application, an applicant may submit a no-tree verification statement stating that no trees protected by this Chapter exist on site. If such a statement is verified by the Building Official or her/his designee no permit will be required.
- (4) Any tree removal permit shall require a mitigation plan. Any replacement trees that are the subject of such mitigation shall be planted, or preserved before issuance of a certificate of occupancy or similar authorization.
  - (a) A tree location survey, identifying all existing trees with a DBH of 4 inches or greater is required. This tree location survey drawing shall be overlaid directly upon the parcel survey to provide the accurate location of all existing trees which are proposed to be destroyed, relocated, or preserved, the scientific name, and common name of each tree, and the diameter (to the nearest half inch at DBH), height and canopy spread of each tree. The survey shall also include a statement indicating how trees not proposed for removal or relocation are to be protected during construction, if applicable. The number of trees to be retained, removed and the new trees to be replanted by diameter to the nearest half inch shall be shown.
- (5) Tree removal permit applications for trees located on 'common' property must be accompanied by a letter from the Board of Directors of the Homeowner's Association indicating the majority of the Board voted to have the tree be removed. To avoid confusion, the review, acceptance, and issuance of a tree removal permit shall still be subject to the criteria in section 107-40(2) a-e.
- (6) Inspections. An application for a tree removal permit constitutes consent by the property owner and/or applicant for the City to conduct site inspections on the subject property, pursuant to permit requirements.

**Section 7.** A new section 107-41 is hereby added to Chapter 107 of the Code of Ordinances of the City which new section shall read as follows:

**Sec. 107-41 Replacement Tree Requirements**

- 1) Replanting Location Requirements
  - (a) Property owners shall not plant replacement trees in an easement or right-of-way if said replacement trees will interfere with the use of the easement (any present or planned overhead or utility).
  - (b) Replacement trees shall not interfere with any present or planned overhead or underground utility.
  - (c) Replacement trees shall not be planted within any City rights-of-way or without the approval of the Building Official or her/his designee.

- (d) Where possible, replacement trees shall be installed in the same or similar location as the problem tree was formerly located, provided that the replacement tree follows the “right tree, right place” principle so it does not become a future problem tree.
  - (e) If all of the replacement trees cannot be replaced on-site, the applicant shall contribute to the tree mitigation account in an amount established by resolution.
- 2) Replacement trees should be size appropriate for the parcel.
- (a) The replanting design shall provide adequate space for root and crown development and is subject to the approval of the Building’s Official or his/her designee.
  - (b) The schedule in the following table indicates the number of replacement trees in the mitigation plan. If the number of replacement trees is in conflict with other sSections of this ordinance, then a per-tree fee will be paid by the permit applicant to the City’s tree mitigation account. The tree mitigation account fee schedule will be determined by the City Council set by resolution.
    - i) Replacement hardwood trees minimum of 33% DBH of the removed trees preferably from the recommended tree list.
    - ii) Replacement palm trees shall follow the Replacement Tree: Palm Schedule below.

Replacement Tree: Palm Schedule	
<u>DBH of Removed Tree</u>	<u>Number of Palm Trees to be Planted</u>
<u>4-8</u>	<u>1</u>
<u>&gt;8-12</u>	<u>3</u>
<u>&gt;12-16</u>	<u>4</u>
<u>&gt;16-20</u>	<u>5</u>
<u>&gt;20 &amp; up</u>	<u>7</u>

- 3) Replanting Tree Species Selection
- (a) Replacement trees shall be of a species appropriate for the placement area and comply with the principle of "right tree, right place." Additional resources, such as Costello, L.R. & Jones, K.S. Reducing Infrastructure Damage by Tree Roots: A Compendium of Strategies, 2003, should be consulted.
  - (b) The City recommends using tree species listed in Sec. 107-45 of this Chapter when replacing problem trees.
  - (c) Avoid using tree species listed in Se. 107-46 non-recommended species
  - (d) Tree species listed in Landscape Code Sec. 107-10. are prohibited from being planted as replacement trees.
- 4) Maintenance of replacement trees
- (a) Replacement trees must live and thrive for a minimum of two years. The owner and their successor(s) in title shall be responsible for maintaining the health of all replacement trees for a minimum of two years from the date of planting.

- (b) The property owner shall be responsible for the maintenance of the mitigation trees, such responsibility including the replacement of unhealthy and dead trees.
- (c) The Building Official, or her/his designee, at her/his discretion, can inspect and monitor any replacement tree planting during the guarantee period and will notify the owner of any corrections needed and/or of information required concerning the maintenance of the replacement trees. Correction may include structural pruning, removing dead and broken branches, replanting, or re-staking as needed.
- (d) If a replacement tree is not thriving or is significantly damaged, diseased, or dead in the opinion of the Building Official, or her/his designee, the owner or their successor shall make corrections or replace the replacement tree.
- (e) Once planted, replacement trees shall not be removed or destroyed, unless it is to replace dead, dying, or damaged trees.

**Section 8.** A new section 107-42 is hereby added to Chapter 107 of the Code of Ordinances of the City which new section shall read as follows:

**Sec. 107-42 Tree pruning**

- (1) The City recommends all trees in the City shall be allowed to develop into their natural habit of growth and shall not be topped, pleached, or pruned into topiary, espalier, or other unnatural shapes. Trees may be structurally pruned to maintain health and vigor by removal of dead, weak, damaged, or crowded limbs, diseased and insect-infested limbs, and branches that rub other branches.
- (2) The City highly discourages the over-pruning of palm trees because the removal of green fronds starves the tree of vital nutrients.
- (3) ANSI A300 Pruning Standards should be followed by professionals performing work in the city.
  - a. Copies of ANSI A300 are available for review at City Hall.

**Section 9.** A new section 107-43 is hereby added to Chapter 107 of the Code of Ordinances of the City which new section shall read as follows:

**Sec. 107-43 Penalties**

- (1) If a protected tree is removed without a permit or otherwise in violation of this Chapter, the tree shall be replaced and the property owner shall pay double the permit fee, of which one-half will be credited to the tree mitigation account. Each tree removed in violation of this article or any permit issued pursuant to this article shall constitute a separate violation. If a replacement tree cannot be planted as validated by the Building Official or her/his designee, the property owner shall make payment into the City's tree mitigation account an amount equal to the cost of the three (3) to one (1) ratio of what the replacement tree would have cost.

**Section 10.** A new section 107-44 is hereby added to Chapter 107 of the Code of Ordinances of the City which new section shall read as follows:

**Sec. 107-44 Recommended trees**

**KEY:** K=Known keystone tree, W=Wind resistant, S=Salt tolerant, F=Flood tolerant, D=Prefers dry soil, E=Edible fruits

Scientific Name	Common Name		K	W	S	F	D	E
<b>IHB Small Tree List (up to 25 feet)</b>								
<i>Quercus chapmanii</i>	Chapman oak		K		S			
<i>Carya floridana</i>	Scrub hickory		K	W			D	E
<i>Viburnum obovatum</i>	Walter's viburnum		K	W		F		
<i>Eugenia foetida</i>	Spanish stopper			W	S			
<i>Boufferea succulents</i>	Bahama strongbark				S			
<i>Canella winterana</i>	Cinnamon bark				S			
<i>Ilex vomitoria</i>	Yaupon holly			W	S	F		
<i>Myrcianthes fragrans</i>	Simpson's stopper				S			E
<i>Sideroxylon tenax</i>	Tough bumelia				S		D	
<i>Dodonaea viscosa</i>	Varnish leaf			W	S			
<i>Citharexylum spinosum</i>	Fiddlewood			W	S			
<b>IHB Medium Tree List (25' - 50' feet)</b>								
<i>Pinus elliottii</i> var. <i>densa</i>	Florida slash pine		K					
<i>Quercus germinata</i>	Sand live oak		K	W	S			
<i>Quercus myrtifolia</i>	Myrtle oak		K	W				
<i>Conocarpus erectus</i>	Buttonwood			W	S			
<i>Coccoloba uvifera</i>	Seagrape				S			E
<i>Coccoloba diversifolia</i>	Pigeon plum				S			E
<i>Guapira discolor</i>	Blolly				S			
<i>Krugiodendron ferreum</i>	Black ironwood			W	S			
<i>Sapindus saponaria</i>	Wingleaf soapberry				S			
<i>Ilex cassine</i>	Dahoon holly			W		F		
<i>Laguncularia racemosa</i>	White mangrove		K	W	S	F		
<i>Rhizophora mangle</i>	Red mangrove		K	W	S	F		
<i>Avicennia germinans</i>	Black mangrove		K	W	S	F		
<b>IHB Large Tree List (50+ feet)</b>								
<i>Quercus virginiana</i>	Live oak		K	W	S			
<i>Carya floridana</i>	Scrub hickory		K	W		F	D	
<i>Pinus palustris</i>	Longleaf pine		K	W		F		

<i>Pinus elliottii</i> var. <i>densa</i>	Florida slash pine		K					
<i>Bursera simaruba</i>	Gumbo limbo			W	S			
<i>Sideroxylon foetidissimum</i>	False mastic			W	S			E
<i>Simarouba glauca</i>	Paradise tree			W	S			
<i>Piscidia piscipula</i>	Jamaican dogwood				S		D	
<i>Lysiloma latisiliquum</i>	False tamarind				S			
<i>Morus rubra</i>	Red mulberry							E

**Section 11.** A new section 107-45 is hereby added to Chapter 107 of the Code of Ordinances of the City which new section shall read as follows:

**Sec. 107-45 Recommended palms**

<u>Common Name</u>	<u>Scientific Name</u>	<u>Brevard Native</u>	<u>Size</u>	<u>Salt Tolerance</u>	<u>Cold Tolerance</u>	<u>Sun Tolerance</u>	<u>Comments</u>
<u>Scrub Palmetto</u>	<u><i>Sabal etonia</i></u>	<u>Yes</u>	<u>Small – up to 4'</u>	<u>Medium</u>	<u>High</u>	<u>Moderate to High</u>	<u>Thrives in sandy soils &amp; has aromatic flowers</u>
<u>Dwarf Palmetto</u>	<u><i>Sabal minor</i></u>	<u>No</u>	<u>Small – up to 6'</u>	<u>Low to medium</u>	<u>Very High</u>	<u>Moderate –light to heavy shade</u>	<u>Wide ranging palm species &amp; only some varieties suitable for IHB</u>
<u>Florida Silver Palm</u>	<u><i>Coccothrinax argentata</i></u>	<u>No</u>	<u>Small – up to 8'</u>	<u>High</u>	<u>Moderate</u>	<u>High</u>	<u>Dark green leaves that are silver underneath</u>
<u>Saw Palmetto</u>	<u><i>Serenoa repens</i></u>	<u>Yes</u>	<u>Small – up to 10'</u>	<u>High</u>	<u>High</u>	<u>High</u>	<u>Native to IHB &amp; provides habitat to several native animals</u>
<u>Keys Thatch Palm</u>	<u><i>Leucothrinax morrisii</i></u>	<u>No</u>	<u>Medium – up to 10'</u>	<u>High</u>	<u>Moderate</u>	<u>High</u>	<u>Light green leaves that are silver underneath</u>
<u>Florida Thatch Palm</u>	<u><i>Thrinax radiata</i></u>	<u>No</u>	<u>Medium – up to 15'</u>	<u>High</u>	<u>Moderate</u>	<u>High</u>	<u>Bright green leaves</u>
<u>Buccaneer Palm</u>	<u><i>Pseudophoenix sargentii</i></u>	<u>No</u>	<u>Medium – up to 15'</u>	<u>High</u>	<u>Moderate</u>	<u>High</u>	<u>Nearly extinct in the wild (native to the FL Keys)</u>
<u>Everglades Palm</u>	<u><i>Acoelorrhaphe wrightii</i></u>	<u>No</u>	<u>Medium – up to 15'</u>	<u>Medium</u>	<u>High</u>	<u>High</u>	<u>Clustering palm with thatch covered stems</u>
<u>Cabbage Palm</u>	<u><i>Sabal palmetto</i></u>	<u>Yes</u>	<u>Medium – up to 30'</u>	<u>High</u>	<u>High</u>	<u>High</u>	<u>FL state tree &amp; provides habitat to several native animals</u>
<u>Royal Palm</u>	<u><i>Roystonea regia</i></u>	<u>No</u>	<u>Large – up to 60'</u>	<u>Medium</u>	<u>Moderate</u>	<u>High</u>	<u>Large heavy leaves that can cause damage when they drop</u>



**Section 12.** A new section 107-46 is hereby added to Chapter 107 of the Code of Ordinances of the City which new section shall read as follows:

**Sec. 107-46 Non-recommended trees**

- (1) The following trees are classified as invasive species by the University of Florida Institute of Food and Agricultural Sciences. The City recommends property owners avoid planting and maintaining these trees to promote and honor the native environment.

<u>Albizia julibrissin</u>	<u>Mimosa tree</u>
<u>Albizia lebbbeck</u>	<u>Woman's tongue</u>
<u>Bauhinia variegata</u>	<u>Orchid tree</u>
<u>Bischofia javanica</u>	<u>Bishopwood</u>
<u>Calophyllum antillanum</u>	<u>Santa Maria</u>
<u>Cinnamomum camphora</u>	<u>Camphor tree</u>
<u>Cupaniopsis anacardioides</u>	<u>Carrotwood</u>
<u>Eugenia uniflora</u>	<u>Surinam cherry</u>
<u>Ficus microcarpa</u>	<u>Laurel fig</u>
<u>Ligustrum lucidum</u>	<u>Glossy privet</u>
<u>Lumnitzera racemosa</u>	<u>Kripa, black mangrove</u>
<u>Manilkara zapota</u>	<u>Sapodilla</u>
<u>Phyllostachys aurea</u>	<u>Golden bamboo</u>
<u>Psidium cattleianum</u>	<u>Strawberry guava</u>
<u>Psidium quajava</u>	<u>Common guava</u>
<u>Scaevola taccada</u>	<u>Half flower, beach naupaka</u>
<u>Senna pendula var. glabrata</u>	<u>Climbing cassia</u>
<u>Terminalia catappa</u>	<u>Tropical almond</u>
<u>Triadica sebifera</u>	<u>Chinese tallow</u>
<u>Vernicia fordii</u>	<u>Tung oil tree</u>

- (2) Prohibited trees are listed in Sec. 107-10 of this Chapter.

**SECTION 13.** In the event that any term, provision, clause or section of this ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, or illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this ordinance, and this ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

**SECTION 14.** All ordinances or resolutions or parts thereof that may be determined to be in conflict herewith are hereby repealed.

**SECTION 15.** The City Clerk is hereby directed to incorporate Section 1 into the Code of the City.

**SECTION 16.** This ordinance shall become effective immediately upon adoption by the City Council.

**PASSED AND ADOPTED** by the City Council of the City of Indian Harbour Beach, Brevard County, Florida, this 9<sup>th</sup> day of January 2024.

X

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Scott Nickle  
Mayor

ATTEST:

X

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Sue Frank, MMC  
City Clerk

First Reading: December 12, 2023  
Second Reading & Public Hearing: January 9, 2024