

ORDINANCE 2012-3

AN ORDINANCE OF THE TOWN OF ST. LUCIE VILLAGE, FLORIDA, AMENDING THE ZONING ORDINANCE OF THE TOWN OF ST. LUCIE VILLAGE TO ESTABLISH REGULATIONS REGARDING TREE REMOVAL AND PRESERVATION, INCLUDING A PERMITTING REQUIREMENT FOR TREE REMOVAL AND LAND CLEARING, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Zoning Ordinance of the Town of St. Lucie Village, Florida, was adopted pursuant to Ordinance 95-3, and subsequently amended pursuant to Ordinances 96-3, 2005-1 and 2006-11;

WHEREAS, the Board of Aldermen is currently reviewing the provisions of the Zoning Ordinance in relation to landscaping and screening regulations;

WHEREAS, the St. Lucie Village Zoning Ordinance does not contain provisions regulating tree removal and preservation; and

WHEREAS, it appears to the Board of Aldermen of the Town of St. Lucie Village, that the lack of regulation has allowed unrestricted razing of property which adversely and unnecessarily impacts native species and negatively impacts adjoining property owners.

NOW, THEREFORE, the Board of Aldermen of the Town of St. Lucie Village, Florida hereby ordains:

1. That the St. Lucie Village Zoning Ordinance is hereby amended by the addition of Section 3.6.5 Tree Removal and Preservation, a copy of which is attached hereto as Exhibit "1", incorporated herein by reference and shall forthwith become a part of St. Lucie Village Zoning Ordinance.
2. This ordinance shall become effective immediately upon passage or as soon thereafter as is permissible by law.
3. Except as amended hereby, the St. Lucie Village Zoning Ordinance as adopted by Ordinance 95-3, and subsequently amended, shall remain in full force and effect.

PASSED AND APPROVED by the Board of Aldermen of the Town of St. Lucie Village on this 21st day of February, 2012.

APPROVED:
BOARD OF ALDERMEN OF THE TOWN OF
ST. LUCIE VILLAGE, FLORIDA

By: William G. Thiess
William G. Thiess, Mayor

ATTESTED:

By: *Diane C. Orme*
Diane C. Orme, Clerk

I, DIANE C. ORME, Clerk of the TOWN OF ST. LUCIE VILLAGE, FLORIDA, do hereby certify that this is a true and accurate copy of Ordinance 2012-3 which was duly introduced, read and adopted at the regular meeting of the Board of Aldermen of the TOWN OF ST. LUCIE VILLAGE, FLORIDA, held this 21st day of February, 2012.

Diane C. Orme
DIANE C. ORME, CLERK

EXHIBIT "1"

Section 3.6.5 Tree Removal and Preservation

(A) Definitions

As used in this section, the following terms have the following meanings.

Grubbing means the removal of vegetation from land by means of digging, raking, dragging or otherwise disturbing the roots of vegetation and the soil in which such roots are located.

Native vegetation means vegetation comprised of those species of vegetation that were present in Florida at the time of European contact including threshold wetlands. Any species introduced to Florida thereafter is non-native vegetation. Descriptions of typical areas of native vegetation are described in the latest version of "26 Ecological Communities of Florida" published by the Florida Chapter of the Soil and Water Conservation Society. Available from the South Florida Water Management District at http://www.sfwmd.gov/orq/pld/proj/wetcons/nslp/ecol_communities.pdf.

Non-native vegetation means any vegetation that is not native vegetation.

Protected tree means any tree, other than those excluded from permitting requirements by Subsection (B)(3) below, having a diameter at breast height of eight (8) inches and/or a circumference of twenty-five (25) inches or more.

Tree survey means an aerial photograph or drawing prepared by a Florida registered surveyor to scale and plotted by accurate techniques, which provides the location, size and common name of all protected trees located in a given lot or parcel.

(B) Permit Required

(1) *Tree removal permit.* 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 Village, without first obtaining a tree removal permit. But the following activities may be done without applying for a permit:

(a) Pruning and trimming of trees or other vegetation when necessary to conduct a survey or site examination for the preparation of subdivision plats, site plans or tree surveys, providing that such pruning and trimming is conducted under the direction of a Florida registered surveyor or engineer.

(b) Routine landscape maintenance such as limited trimming or pruning of vegetation that is not intended to result in the eventual death of the plant, or any other landscaping activity which is commonly recognized as routine maintenance.

(c) Removal, trimming, pruning or alteration of any tree or vegetation in an existing utility easement or public right-of-way, provided such 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. This exemption shall not apply to the removal, trimming or alteration of any Live oak (*Quercus virginiana*) tree, or other valuable tree designated by the Board of Aldermen that falls in the protected tree size range, such as Laurel Oak or the native Bay trees.

(d) Removal, trimming or alteration of any tree or vegetation for the purpose of maintaining existing legal access to a property.

(e) Any activity conducted by a lawfully operating and bona fide commercial nursery or agricultural operation, or bona fide landscape or lawn maintenance company, when the activity occurs on property owned or lawfully occupied by the person conducting such activity.

(f) Removal or replacement of any tree which has been damaged or destroyed beyond saving, from extreme weather conditions, insects, disease and fire, or which constitutes an immediate peril to life or property and has been confirmed by the Board of Aldermen or its appointed representative.

(2) *Land Clearing Permit.* No land clearing or grubbing shall, directly or indirectly, be conducted by any person on any property located within the Village without first obtaining a land clearing permit.

(3) *Trees excluded from permitting requirements.* No permit shall be required for removal of any of the trees belonging to any of the following species:

(a) Casuarina spp. (Australian pine);

(b) Melaleuca quinquenervia (Melaleuca, Cajaput, Paperbark, Punk Tree);

(c) Schinus terebinthifolius (Brazilian pepper), Rosewood, Silk Oak, Norfolk Pine, Loquat, Carrotwood and non-native palms.

(4) *Property exempt from permitting requirements.* The following properties shall be exempt from the permitting requirements of Section 3.6.5(B)(1) and (2):

(a) Any existing, developed single family residential lot.

(b) Any property for which a site plan and/or landscaping plan has been approved, providing that any tree removal, land clearing, or grubbing is consistent with the approved plan(s).

Such properties are not otherwise exempted from any provision or permitting requirement of any ordinance.

(C) Conditions for issuing permits.

The following permits shall be available upon proper application in compliance with this section - tree removal permit and land clearing permit. Criteria governing issuance are as follows:

(1) *Tree removal permit.* No tree removal permit shall be issued unless the Board of Aldermen finds that at least one of the following criteria is satisfied with respect to each protected tree designated for removal:

(a) That the tree is located within the net buildable area of a given site as identified on the tree survey and site plan by the applicant and the building cannot practically be shifted to save the tree;

(b) The tree is located within an existing or proposed right-of-way;

(c) The tree is located within an existing or proposed easement, stormwater management tract or facility, provided that only the minimum area reasonably necessary for the service or use shall be considered for purposes of determining whether there is necessity for tree removal;

(d) The tree is located where it creates or will create a safety or health hazard or a nuisance with respect to existing or proposed structures or vehicles or pedestrian routes;

(e) The tree is located where it interferes with the installation, delivery or maintenance of proposed or existing utility services to the site except a higher degree of necessity must be demonstrated by the applicant in the case of a Live oak tree (*Quercus virginiana*) or other valuable tree designated by the Board of Aldermen which qualifies as a protected tree;

(f) The tree is confirmed by the Board of Aldermen to be diseased, severely injured or in danger of falling; or

(g) The tree unreasonably prevents 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.

(2) *Land clearing permit.* No land clearing permit shall be issued unless the Board of Aldermen finds that each of the following criteria is satisfied:

(a) The land clearing or grubbing is necessary to make those certain site improvements authorized by an approved site plan, subdivision approval or land development permit. In the event the area to be cleared is the minimum necessary for such work or in the event the aforementioned approvals are not required by law for the intended use of the property, that the proposed clearing is the minimum necessary for the proposed use or improvement;

(b) The applicant provides a written erosion control plan describing methods to control erosion which may be expected to occur as a result of the proposed clearing or grubbing;

(c) Protected trees shall have protective tree barriers erected, at least 10' from trunk while site is cleared and developed.

(3) *Limitations.* Except as specifically authorized by the permit, a land clearing permit does not authorize the damage, removal, relocation or destruction of protected trees.

(4) *Tree survey.* A tree survey shall be required for any tree removal or land clearing permit, and shall be filed with the permit application or application for site plan approval, whichever is submitted first. A tree survey shall be to scale, shall depict the location and describe each protected tree and, where applicable, any proposed construction areas.

(D) Failure to obtain permit.

After the effective date of the above permitting requirements, any tree removal, land clearing or grubbing that is done without a permit shall be remedied by mitigation approved by the Village before any affected property may be used for any purpose or granted site plan or other approval for development or construction. Any mitigation approved shall be pursuant to a plan which must be shown to alleviate any impacts upon, or loss of, protected trees and native vegetation and also remedy any impact, including in relation to erosion or drainage, upon adjacent or other impacted non-owned properties.