

**ORDINANCE 2015-1
WELAKA TREE ORDINANCE**

**AN ORDINANCE PROVIDING FOR CARE, NURTURING, AND REPLACEMENT OF TREES
AND SHRUBS WITHIN THE TOWN OF WELAKA, FLORIDA.**

WHEREAS, trees provide a setting with a variety of color unsurpassed in shade and hue, and

WHEREAS, trees are an invaluable psychological counterpart to the man-made urban setting,
and

WHEREAS, trees absorb a high percentage of carbon dioxide and return oxygen, a vital
ingredient to life; and

WHEREAS, trees are a valuable asset that can affect an area economically, and

WHEREAS, The Town Council of the Town of Welaka has determined that the protection of
trees on public and private property within the Town of Welaka is not only desirable but
essential to the present and future health, safety and welfare of all citizens, and

WHEREAS, The Town of Welaka recognizes that trees on public and private property are
valuable contributors to the Town's environment

NOW, THEREFORE, be it enacted and ordained by the Town Council of the Town of Welaka,
Florida:

Section 1. Definitions

For the purpose of the administration and enforcement of this Ordinance, and unless otherwise stated in this Ordinance, the following words shall have a meaning as indicated herein:

(a) **Tree:** Any living self-supporting perennial plant whose one main stem attains at least a diameter of three [3] inches or nine [9] inches in circumference, at four and one-half feet [4.5] above ground level and a height of fifteen [15] feet at maturity.

(b) **Street Trees:** Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the Town

(c) **Park Trees:** Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the Town, or to which the public has free access as a park.

(d) **Regulated Tree:** Any living tree which is eight [8] inches or more in diameter or two [2] feet in circumference, whichever dimension is lesser, at a point four and one-half feet [4.5] above ground level. The definition shall include all champion trees regardless of size. Regulated tree(s) shall hereinafter be called "tree" or "trees."

(e) **Champion Trees:** Those trees that have been identified by the Florida Division of Forestry as being the largest of their species within the State of Florida or by the *American Forestry Association* as the largest of their species in the United States. The current list of champion trees is on file and will be subject to revisions and will be updated yearly at regularly scheduled public meeting of the Trees and Gardens Board.

(f) **Heritage Trees:** Any trees with a diameter of at least thirty [30] inches, or seven feet ten inches in circumference, whichever dimension is lesser, measured at a point four and one-half feet above ground level.

(g) **Street Trees to be Planted:** The following list constitutes the official Street Tree species list for the Town of Welaka, Florida. No species other than those included in this list, may be planted as Street Trees without written permission of the Town Tree Board.

Small Trees

Dahoon, Holly Hop, Hornbeam, Jerusalem, Thorn Chickasaw, Plum, Bottlebrush, Pindo Palm, and Cherry Laurel

Medium Trees

Dogwood
Cabbage Palm
Redbud
Golden Rain Tree
American Holly
Loblolly Bay
Pumpkin Ash
East Palatka Holly
Wax Myrtle

Large Trees

Bald Cypress, Winded Elm, Hackberry, Red Maple, Laurel Oak, Live Oak, Washington Palm, Sycamore, Sweetgum, Date Palm.

Section 2. Creation and Establishment of a Town Tree Board

There is hereby created and established a Town Tree Board for the Town of Welaka, Florida, which shall consist of five (5) members, who are 1 council member of this Town who shall not be the chairman of the tree board, and 4 public citizens who shall be appointed by the Mayor of the Town one of which one (1) shall be the Chairperson of the Town Tree Board to oversee this ordinance and bring all findings and programs to the Council.

Section 3. Term of Office of Tree Board Members

The term of office and the method for filling vacancies established under section 2 of this Ordinance shall be as follows. Three public citizen board members who shall be appointed in each even number year. One public citizen and one council member who shall be appointed in odd number years.

Section 4. Compensation of Tree Board Members

Members of the Tree Board shall serve without compensation.

Section 5. Duties and Responsibilities of Tree Board

(a) It shall be the responsibility of the Tree Board to study, investigate, counsel, develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented annually to the Town Council and, upon

their acceptance and approval, shall constitute the official comprehensive tree plan for the Town;

(b) The Tree Board, when requested by the Town Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

(c) Site plans, development plans, or subdivision plats that result in an alteration of a site, or that require Planning and Zoning approval under Town Of Welaka Land Development Plan, shall include consideration of tree preservation; and the approval of such plans shall constitute the issuance of a tree permit consistent with the approved plan. Site plans, development plans and subdivision plats may require a pre-design, on-site meeting with the town Tree Board to locate any champion trees or heritage trees.

- (1) If such trees are present and there is some dispute regarding the health of such trees, the County Forester will determine the health of such trees. The applicant will mark and locate, using a registered land surveyor, all champion trees and all heritage trees deemed healthy enough to provide substantial long-term benefits. The applicant may locate additional trees.
- (2) Notice of application for authorization to remove a tree shall be provided to the members of the Tree Board, and one or more of the members of the Tree Board shall be provided a reasonable opportunity to comment to the permitting authority prior to the issuance of a permit or conditional use permit that would authorize the removal of trees.
- (3) A subsequent tree location survey must be included in the application. The applicant will be required to save all champion trees.
- (4) Site plan approval requires the retention of a 15 percent tree canopy for all zoning districts except industrial and platted single-family subdivisions. The Town may grant the application with less than 15 percent canopy if one or more of the criteria listed in Section 6 are met.

Section 6. Tree Permits - Generally

(a) ***When Required.*** In addition to the development review required under Section 15

A permit shall be required as a condition precedent to the removal or relocation of any Champion Tree or Heritage Tree on any property within the City limits. A Regulated Tree or other tree not considered a Champion Tree or Heritage Tree that is located completely on private property does not require a permit to remove or relocate.

Nothing herein should be interpreted to exempt the property owner or developer from any landscaping and buffering requirements in the Land Development Code or from any other local, State or Federal permit requirements.

(b) **Permit Process.** The following shall serve as the standard permitting process for tree removal or relocation permits in the Town of Welaka

- (1) Any person wishing to obtain a tree permit shall make application with the Building Department on such form as shall be prescribed by the Building Official. An application fee may be required, the amount of which shall be established by a resolution of the Welaka Town Council.
- (2) The Building Official shall forward the application to chairman of the Tree Board who shall review the applications and determine what effect the removal will have upon the drainage, topography, natural resources, and ecology of the area and shall consider these factors in granting or denying an application.
- (3) A member of the Tree Board shall, within five [5] working days of the filing of an application concerning a Champion Tree or Heritage Tree, attempt to verify the information contained in the application and shall either approve or deny the application as to each regulated tree proposed to be removed or relocated or pruned. Applications that are denied may be appealed to the Welaka Town Council.

(c) Permit Approval - Considerations. The Building Official and the Tree Board shall grant the application if it finds one or more of the criteria are met:

- (1) The tree is an immediate safety hazard that may result in physical harm to persons, domestic animals, buildings, motor vehicle traffic, bicycle traffic, or pedestrian traffic.
- (2) The tree is infected with an infestation of harmful insects or fungi that are not generally present on other trees of the species and may reasonably be expected to spread to other trees not so infested as determined by the Putnam County Arborist.
- (3) The tree, by its location, prevents reasonable use or development of the site, and no reasonable alternative to such use or development is possible.
- (4) The tree, by the normal growth of its branches or roots, is causing

progressive damage to buildings or other structures, and no reasonable correction or prevention is available other than the removal or pruning of the tree.

As a condition of the granting of a permit, the applicant may be required to relocate the trees proposed for removal or replace the removed trees with new trees planted elsewhere on the site. Replacement trees may be required on a more than one-for-one basis if the replacement trees are smaller than the tree being removed; however, replacement trees shall not be required on more than a three-for-one basis. A tree list developed as part of this ordinance shall be used as a reference for selecting replacement trees.

In all cases wherein this chapter shall require replacement of any tree, the replacement shall be made with replacement stock. "Replacement stock" is hereby defined as any tree contained on the replacement stock list having a height of at least eight [8] feet and a *Florida Nursery Grade Number One* or better. Survival of replacement stock will be guaranteed until the replacement stock meets with the definition of "tree" as defined in Section 1. Replacement stock may be any of the trees listed on a list of approved trees established by resolution of the Welaka Town Council

Section 7. Street Trees Species to be Planted

No species other than those included in the street tree list may be planted as street trees without written permission of the Tree Board.

Section 8. Spacing

The spacing of street trees will be in accordance with the tree species classes referred to in Section 8, and no trees may be planted closer together than the following:

- (a) Small trees, 20 feet
- (b) Medium trees, 30 feet
- (c) Large trees, 50 feet, except in special plantings designed or approved by a landscape architect.

Section 9. Distance from Curb and Sidewalk

The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the tree species size classes referred to in section 8. and no trees may be planted closer to any curb or sidewalk than the following:

- (a) Small trees - 2 feet

- | | | | |
|-----|--------------|---|--------|
| (b) | Medium trees | - | 3 feet |
| (c) | Large trees | - | 4 feet |

Section 10. Distance from Street Corners and Fire Hydrants

No street tree shall be planted closer than twenty [20] feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than fifteen [15] feet of any fire hydrant.

Section 11. Public Tree Care

(a) The Town of Welaka shall have the right to plant, prune, maintain, relocate or remove trees, plants and shrubs within the lines of all public rights-of-way, streets, alleys, avenues, lanes, squares, parks and other public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The Tree Board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with an injurious fungus, insect or other pest. This section does not prohibit the planting or pruning of street trees by owners of adjacent property provided that planted trees meet the requirements and any proposed pruning of existing Street Trees or Park Tree must be approved in advance by the Tree Board.

(b) All public agencies and utilities shall comply with this ordinance. All public utilities, governmental agencies and their subcontractors shall comply with the "National Arborist Association Standard for the Pruning of Shade Trees" when pruning trees on public or private property. Notice shall be provided to landowners at least one week in advance of pruning and/or removing landowners' trees. Emergency removal requiring immediate action to protect the health and safety of the public are not subject to this ordinance.

Section 12. Tree Topping

It shall be unlawful as a normal practice for any person, business entity, firm, corporation or Town department to top any street tree, park tree or other tree on public or private property. "Topping" is defined as the severe cutting back, of limbs to stubs larger than three [3] inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, trees serving as viable habitat for wildlife, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this requirement at the determination of the Tree Board.

Section 13. Pruning, Corner Clearance

Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches so that such branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection, and to that end there shall be a clear space of eight [8] feet above the surface of the street or sidewalk. Such owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, or interferes with visibility of any traffic-control device or sign.

Section 14. Dead/Diseased Tree Removal on Private Property

The Town shall have the right to cause the removal of any dead or diseased trees on private property within the Town when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the city. The Tree Board will notify in writing the owners of such trees. Removal shall be done by the owners at their own expense within thirty [30] days after the date of service of notice. In the event of failure of an owner to comply with such provisions, the Town shall have the authority to remove such trees and charge the cost of removal on the owner's property.

Section 15. Evasive Trees

The Town shall cause no planting or cultivating of the following evasive plants upon public property in the Town of Welaka. Furthermore; the Town strongly recommends that all Town property owners refrain from planting or cultivating said species:

- Mimosa, Silk Tree
- Woman's Tongue
- Asparagus-Fern
- Orchid Tree
- Australian-Pine Beach Sheoak
- Camphor Tree
- Winged Yam
- Air-Potato
- Cat's Claw Vine
- Surinam Cherry
- Laurel Fig
- Chinese Privet, Hedge Privet
- Japanese Honeysuckle
- Nandina, Heavenly Bamboo
- Popcorn Tree, Chinese Tallow Tree
- Flamegold Tree
- Bottlebrush, Weeping Bottlebrush
- Golden Bamboo
- Oyster Plant
- Simple-Leaf Chaste Tree

- Chinese Wisteria
- Malanga, Elephant Ear

Section 16. Protection and Preservation

It is the intent of this section to ensure the survival of existing trees during development and alteration of a site. Recognizing the impossibility of protecting all trees, the developer will designate those trees to be preserved and the level of protection to be afforded them based on the following categories:

(a) *Category I Trees*: Those trees identified during a pre-design on-site meeting as being healthy Heritage Trees which do not conflict with the approved site plan. Trees so designated will be protected from construction activities within the full drip line of the tree. All Champion Trees will be protected to Category I standards or better.

(b) *Category II Trees*: Those trees identified during a pre-design meeting which are desirable to keep but due to location and development activities cannot be protected to the level of Category I Trees. Construction activities will be kept at a minimum often feet from the trunk of Category II Trees. Alternative construction techniques such as pervious pavements, jacking and boring, bridging over large roots, and root aeration systems may be used to protect these trees.

(c) *Category III Trees*: Those trees which, due to number or location, cannot receive the level of protection afforded Category I and II trees, yet add to the landscape and may survive development activities.

Section 17. Exemptions

(a) **Forestry**: All bona fide commercial forestry operations, including natural, planted, and hardwood forests, regardless of zoning or tax classifications, are exempt from this ordinance insofar as the following provision are met:

- (1) **Qualifications**: Parcels in the Agriculture, Commercial or Residential Zoning classification must be ten acres or greater in size. A commercial forestry operation in the above classifications must have a forest management plan in effect similar to, and meet the same minimum standards as, the forest management plan furnished or developed by the county forester; however, one good and accepted forest management practice will not be required in lieu of another.
- (2) **Owners** of commercial forestry operations in areas zoned Agriculture, Commercial, or Residential must submit a notice of activity to the Tree

Board prior to the commencement of the following silvicultural activities: timber harvesting, mechanical site preparation, or land clearing. This notice will include the following information:

- a. Owner's name
- b. Parcel number
- c. Parcel acreage
- d. Acreage affected
- e. Type of activity
- f. Vendor name and address
- g. Estimated date of commencement of activity

(3) All commercial forestry operations, regardless of zoning or tax classification, must be conducted in accordance with the Silviculture Best Management Practices Manual and the Management Guidelines for Forested Wetlands in Florida. Failure to comply will terminate the exemption as provided herein from this Chapter.

(b) Agricultural: Lands that are zoned Agricultural and that qualify for the agricultural tax exemption are exempt from this Chapter subject to the following provisions:

- (1) Requirement of permits for removal of heritage trees in all agricultural districts, except bona fide forestry operation within fifty [50] feet of property ownership boundaries and within four hundred [400] feet of all publicly owned parks, except in bona fide forestry operations.
- (2) Within Agriculture-zoned lands, a notice of activity must be submitted to the Tree Board prior to clearing new lands for agricultural use. This notice will include the following information:
 - (a) Owner's name
 - (b) Parcel number
 - (c) Acreage affected
 - (d) Type of activity
 - (e) Vendor name and address
 - (f) Estimated date of commencement of activity

(c) Residential: Except for Champion and Heritage Trees, trees on lots in actual single-family residential use are exempt from this section.

Section 18. Primary Reference Work

Whenever there is a question regarding tree protection standards, the Florida Division of Forestry Tree Protection Manual shall serve as the primary reference.

Section 19. Applicability of Ordinance

The terms and provisions of this Chapter shall apply to all real property lying within the incorporated limits of the Town of Welaka, including publicly owned land, rights-of-way, and easements.

Section 20. Article to be Liberally Construed

This Article shall be liberally construed in order to effectively carry out the purposes hereof, which are deemed to be in the best interests of the public health, safety and welfare of the citizens and residents of the Town. In the event this chapter conflicts with any other applicable county or state regulations on this subject matter, the more restrictive shall apply.

Section 21. Interference with Tree Board

It shall be unlawful for any person to prevent, delay or interfere with the Tree Board, or any of its agents, or servants, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private property, as authorized in this ordinance.

Section 22. Local Business Tax Receipt and Insurance Required

It shall be unlawful for any private person, business entity, corporation or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the Town without first applying for and procuring a Local Business License in accordance with the requirements of the town. However, no license shall be required of any public service company or City employee doing such work in the pursuit of their public service endeavors. Before any Local Business License shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$25,000.00 for bodily injury and \$10,000.00 property damage indemnifying the town or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

Section 23. Enforcement; Town of Welaka Code Enforcement Board

Any violation or alleged violation of this ordinance may be cited by Notice of Violation issued to the offending person(s) by either (1) The Town of Welaka Code Enforcement Officer; or (2) The Town of Welaka Building Official; or The Town of Welaka Tree Board; or (4) the Town of Welaka Chief of Police. Upon the issuance of such citation, the same shall be forthwith referred to the Town of Welaka Code Enforcement Board for disposition in accordance with its standard and statutory procedures.

Section 24. Enforcement; Penalties

(1) The Town of Welaka Code Enforcement Board, upon such notification and duly noticed hearing, in the event of a finding that a violation of this ordinance has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the enforcement board for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the violation is a violation described in s. 162.06(4), the enforcement board shall notify the local governing body, which may make all reasonable restoration required to bring the property into compliance and charge the violator with the reasonable cost of the restoration along with the fine imposed pursuant to this section. Making such restoration does not create a continuing obligation on the part of the local governing body to make further restoration or to maintain the property and does not create any liability against the local governing body for any damages to the property if such restoration was completed in good faith. If a finding of a violation or a repeat violation has been made as provided in this part, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, a code enforcement board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in paragraph (2)(a).

(2)(a) A fine imposed pursuant to this section shall not exceed \$250 per day for a first violation and shall not exceed \$500 per day for a repeat violation, and, in addition, may include all costs of restoration pursuant to subsection (1). However, if the code enforcement board finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000 per violation.

(b) In determining the amount of the fine, if any, the enforcement board shall consider the following factors:

1. The gravity of the violation;
2. Any actions taken by the violator to correct the violation; and
3. Any previous violations committed by the violator.

(c) An enforcement board may reduce a fine imposed pursuant to this section.

(3) A certified copy of an order imposing a fine, or a fine plus restoration costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the

violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the local governing body, and the local governing body may execute a satisfaction or release of lien entered pursuant to this section.

PASSED THE FIRST READING AT REGULAR MEETING HELD: September 8, 2015

PASSED THE SECOND READING AT A MEETING HELD: November 10, 2015

ATTEST:



Jennifer McDaniel, Town Clerk



Gordon Sands, Mayor

APPROVAL AS TO FORM:



Allen Scott, Town Attorney



Jamie Watts, Council President