

## **ORDINANCE NO. 01-18**

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, AMENDING ITS CODE OF ORDINANCES AT CHAPTER 50. NATURAL RESOURCE PROTECTION; ARTICLE VII. TREES; DIVISION 2. TREE REMOVAL. BY AMENDING THIS DIVISION TO REQUIRE SURVEYS AND OTHER NECESSARY INFORMATION IN CONJUNCTION WITH A TREE REMOVAL PERMIT APPLICATION; PROVIDING EXCEPTIONS; FURTHER AMENDING DIVISION 3. PRESERVATION OF HISTORIC AND SPECIMEN TREES AND NATIVE SPECIES. BY UPDATING THE DESIGNATION AND NOTICE PROVISIONS FOR THESE ACTIVITIES; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 50. NATURAL RESOURCE PROTECTION. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**WHEREAS**, the Village of Tequesta desires to updates its tree removal codes to require surveys and other information for tree removal permits; and

**WHEREAS**, the Village of Tequesta desires to updates its tree designation codes by updating the notice provisions for these activities; and

**WHEREAS**, the Village Council believes the code amendments contained in this ordinance will be in the best interests of the citizens of the Village of Tequesta.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, THAT:

**Section 1:** Chapter 50. Natural Resource Protection. of the Code of Ordinances of the Village of Tequesta is hereby amended at Article VII. Trees. Division 2. Tree removal, by amending this division to require surveys and other necessary information in conjunction with a tree removal permit application; providing exceptions; providing that Article VII. Trees. Division 2. Tree removal shall hereafter read as follows:

## **Chapter 50 – Natural Resource Protection**

### **ARTICLE VII. - TREES**

#### **DIVISION 2. - TREE REMOVAL**

##### **Sec. 50-231. - Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Tree* means any self-supporting woody plant, together with its root system, growing upon the earth, usually with one trunk of at least three inches in diameter at a height of four and one-half feet above the ground or a multi-stemmed trunk system with a definitely formed crown.

##### **Sec. 50-232. - Violations; enforcement.**

Violations of this division may be brought before the code enforcement special magistrate pursuant to chapter 2, article IV. Violations of this division are presumed to be irreparable and irreversible.

##### **Sec. 50-233. - Permit required.**

It shall be unlawful for any person to remove, damage, or destroy from any undeveloped parcel of land located within the village any tree in excess of three inches in diameter at a height of four and one-half feet above the ground or having a multi-stemmed trunk system with a definitely formed crown prior to obtaining a tree removal ~~land development~~ permit from the village council.

##### **Sec. 50-234. - Application for permit.**

Any person desiring a tree removal ~~land development~~ permit as required by this division shall submit a written application to the community development department together with a filing fee as set by resolution of the village council and on file in the village clerk's office. The application shall include a signed and sealed survey prepared by a professional surveyor, indicating the location of the tree(s) to be removed, as well as additional ~~sufficient~~ information to delineate the extent of the clearing necessitated by the proposed

tree removal ~~land development~~, information specifying replacement trees to be installed in place of the removed tree, if necessary, and ~~as well as~~ sufficient information to document the appropriate fee for the tree removal ~~land development~~ permit.

**Sec. 50-235. - Issuance of permit.**

The application for a tree removal ~~land development~~ permit under this division shall be reviewed by the Director of Community Development as well as the Village's arborist or landscape planning consultant for compliance with code requirements, if any, for minimum required trees on the property in question ~~village council in conjunction with village council review of the proposed improvements to the vacant parcel of land.~~

**Sec. 50-236. - Exemptions.**

(a) This division shall not apply to:

(1) The removal of trees on public lands or public rights-of-way conducted by or on behalf of a federal, state, county, municipal, or other governmental agency in pursuance of its lawful activities or functions.

(2) The clearing of vacant ~~or developed~~ lots within previously approved subdivisions.

(3) Reserved. ~~The removal of trees from individually developed parcels of land, except that the removal of any historic, specimen or native tree shall be subject to division 3 below.~~

(b) The tree removal ~~land development~~ permit requirement shall not be construed to prohibit the removal or elimination of excessive accumulations of untended growth of weeds, undergrowth, or other dead or living plant life as may be required, or to prohibit compliance with general landscaping maintenance in accordance with the requirements of section 78-399 of the village's landscaping code.

**Secs. 50-237—50-260. - Reserved.**

**Section 2:** Chapter 50. Natural Resource Protection. of the Code of Ordinances of the Village of Tequesta is hereby amended at Article VII. Trees. Division 3. Preservation of historic and specimen trees and native species, by amending this division to by updating the designation

and notice provisions for these activities; providing that Article VII. Trees. Division 3. Preservation of historic and specimen trees and native species shall hereafter read as follows:

## **Chapter 50 – Natural Resource Protection**

### **ARTICLE VII. - TREES**

#### **DIVISION 3. - PRESERVATION OF HISTORIC AND SPECIMEN TREES AND NATIVE SPECIES**

##### **Sec. 50-261. - Purpose and intent.**

The purpose of this division is to establish general procedures for designation and criteria for designation of historic and specimen trees and native species within the village. The goals of this division are to:

- (1) Preserve historically significant trees within the village limits;
  - (2) Preserve trees within the village perceived as landmarks;
  - (3) Protect duly designated historic and/or specimen trees from potential adverse effects;
- and
- (4) Protect native trees or scrub trees providing habitat for endangered Florida species and/or endangered Florida trees.

##### **Sec. 50-262. - Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Historic tree* means a tree that has been determined in the judgment of the planning and zoning ~~advisory~~ board, acting as the tree board, to be of notable public interest because of its historic association or landmark status, and has been so designated by action of the village council.

*Native tree* and *endangered state tree* mean a tree that has been determined in the judgment of the planning and zoning ~~advisory~~ board, acting as the tree board, to be essential for the preservation of native habitat or considered an endangered state tree.

*Specimen tree* means a tree that has been determined in the judgment of the planning and zoning ~~advisory~~ board, acting as the tree board, to be of high value because of its

type, size, age or other professional criteria, and has been so designated by action of the village council.

**Sec. 50-263. - Criteria for designation.**

In making a designation under this division the village council shall consider the following criteria:

- (1) A recommendation made by the planning and zoning ~~advisory~~ board acting as the tree board.
- (2) The significance of the tree as a village landmark.
- (3) The significance of the tree due to high value because of its size, age and/or historic value.
- (4) The significance of the tree in the preservation of native state habitat or a tree determined to be endangered.

**Sec. 50-264. - Procedure for designation.**

The designation of certain trees as historic, specimen, native or endangered shall require the following procedures by the village council:

- (1) The community development director shall notify the owner of the land upon which the tree is located, by certified mail that the planning and zoning board acting as the tree board will consider such designation at its next regularly scheduled meeting, such notice being mailed not less than 20 days prior to the meeting date.
- (2) The planning and zoning board acting as the tree board will hear the reasons for designation, and any objections thereto; thereafter, it will make its recommendation for designations which shall be forwarded to the village council for final action.
- (3 4) The community development director ~~village manager~~ shall notify the owner of the land upon which the tree is located, by certified mail that the village council will consider the planning and zoning board acting as the tree board's recommendation for such designation at its next regularly scheduled meeting, such notice being mailed not less than 20 days prior to the meeting date.
- (4 2) The village council will hear the planning and zoning board acting as the tree board's recommendation, the reasons for designation, and any objections thereto; thereafter, it

will make its designations, which will be promulgated as part of the official records of the village. In addition, the village shall prepare and record in the public records of the county an official document reflecting the designation of the historic, specimen, native or endangered tree, which document shall be recorded against the land upon which the tree is located.

(5 3) Within 14 days after the designation of historic, specimen, native or endangered trees by the village council, the village manager shall notify the owner of the land upon which the tree is located, who shall be furnished with a copy of the official action, by certified or registered mail, at the last known address of the owner of the property involved.

**Sec. 50-265. - Removing, damaging or trimming trees without permission.**

(a) Prohibited acts. No person shall, directly or indirectly, cut down, remove or move, or effectively destroy through damage, any historic, specimen, native or endangered trees except after written permission duly obtained by application to and after a hearing before the planning and zoning ~~advisory~~ board acting as the tree board, whose recommendation will be forwarded with the application for review by the village council. In addition, no person shall trim any historic, specimen, native or endangered tree without first receiving written permission of the village manager. Additionally, any person found guilty of a violation of this subsection shall be required to replace the tree that has been damaged, removed or materially altered in character through illegal trimming with, to the extent possible, a tree of like size and kind. Failure to replace the tree may result in a daily fine for each day the violation occurs.

(b) Exceptions. If any historic, specimen, native or endangered tree designated as such shall become dangerous to the public health, welfare or safety, and should require removal without delay in the interest of public safety, the village manager may authorize the removal thereof and shall promptly report his actions to the village council. If it is determined by the village manager that any historic, specimen, native or endangered tree is in need of trimming or pruning and a determination is made by the village manager that the trimming or pruning will not have an adverse effect on the life or health of the tree, the

village manager may authorize the trimming or pruning of the tree and report his actions in that regard.

(c) Enforcement. The failure to comply with the provisions of this division shall cause the violation to be considered by the code enforcement officer and such violation may be brought before the code enforcement special magistrate pursuant to chapter 2, article IV. Violations of this division are presumed to be irreparable and irreversible. Nothing in this section shall preclude the village seeking relief by civil action through mandatory injunctive relief or other relief available through the court.

**Section 3:** Each and every other Section and Subsection of Chapter 50. Natural Resource Protection. shall remain in full force and effect as previously adopted.

**Section 4:** All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

**Section 5:** Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

**Section 6:** Specific authority is hereby granted to codify this Ordinance.

**Section 7:** This Ordinance shall take effect immediately upon passage.

FIRST READING this \_\_\_\_ day of January, 2018.

SECOND AND FINAL READING this \_\_\_\_ day of February, 2018.