

ORDINANCE NO. 138-2022

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF GOLF AMENDING THE VILLAGE LAND DEVELOPMENT REGULATIONS BY ESTABLISHING SECTION 5.06 PRESERVATION OF HISTORIC AND SPECIMEN TREES; AMENDING SECTION 5.04 CONSERVATION REQUIREMENTS AND THE TABLE OF CONTENTS FOR CONSISTENCY WITH SECTION 5.06 PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the Village of Golf has adopted a comprehensive plan pursuant to Chapter 163, Florida Statutes (the Comprehensive Plan); and

WHEREAS, Chapter 2, the Future Land Use Element, Chapter 3, the Transportation Element and Chapter 6, the Conservation Element of the Comprehensive Plan all require that the Village provide for the protection of natural habitat and preservation of existing trees (other than undesirable exotic vegetation); and

WHEREAS, the Village Council desires to further the goals, policies and objectives of the Comprehensive Plan by establishing provisions for the preservation of historic and specimen trees.

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

SECTION 1: The Village Land Development Regulations are amended as follows:

Table of Contents:

[The page numbers of the Table of Contents will change with the addition of amended or additional language and will be revised in the final version accordingly.]

and

5.04 CONSERVATION ELEMENTS:

- D. The Village of Golf will encourage the preservation and protection of native vegetation and the use of xeriscaping in new development (Conservation Element, Objective 1.3.0). Additionally, the Village will ensure that land development and future land uses include provisions for the protection of native habitat, preservation of existing trees (other than undesirable exotic vegetation) minimizing pollution, preserving wetlands and historic resources (Future Land

Use Element, Objective 1.4.0. The Village will also provide a traffic circulation system which minimizes adverse effects on the natural environment (Transportation Element, Goal 2.0.0.) To further the goals, objectives and policies of the Village Comprehensive Plan, Section 5.06 below provides for the preservation of historic and specimen trees.

and

5.06 PRESERVATION OF HISTORIC AND SPECIMEN TREES

1. Definitions.

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

Historic trees and *specimen trees* are defined as follows:

a. *Historic tree* means a tree that has been determined in the judgment of the Village Manager, in conjunction with the Mayor, and a Village consultant, if any, to be of notable public interest because of its historic nature and has been so designated by action of the Village Council.

b. *Specimen tree* means a tree that has been determined in the judgment of the Village Manager, in conjunction with the Mayor, and a Village consultant, if any, 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.

2. Procedure for designation.

The designation of certain trees as historic or specimen trees shall require the following procedure by the Village Council:

a. The Village Manager shall notify the owner of the land upon which the tree is located, by certified or registered mail, that the Village Council will consider such designation at its next regularly scheduled meeting, such notice being mailed not less than 20 days prior to the meeting date. In the case of trees owned by the Village,

the Village Manager shall present such trees for designation by the Village Council at a regularly scheduled meeting.

b. The Village Council will hear 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 shall record in the public records of the county an official document reflecting the designation of the historic or specimen tree, which document shall be recorded against the land upon which the tree is located.

c. Within 14 days after the designation of historic or specimen trees, 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.

3. Damaging, destroying without permission, trimming without permission.

a. *Prohibited; penalties; replacement required.* No person shall, directly or indirectly, cut down, remove or move, or effectively destroy through damage any historic or specimen tree except after written permission duly obtained by application to and after a hearing before the Village Council. In addition, no person shall trim any historic or specimen tree without first receiving the written permission of the Village Manager. A person found guilty of a violation of this section shall be subject to penalties established by resolution of the Village Council and shall be subject to mandatory injunctive relief in a civil proceeding and/or subject to the jurisdiction of the Village Council. Additionally, any person found guilty of a violation of this section 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, two trees of a size and kind to be determined by the Village Manager. One of the two replacement trees shall be planted in the same location as the damaged or destroyed tree after the damaged or destroyed tree and its root system have been removed. The second replacement tree will be planted at a location to be determined by the Village Manager on the same property. Said trees shall be replaced within twenty days of written notice from the Village.

Failure to replace the tree in the manner set forth herein may result in a daily fine for each day the violation occurs.

b. *Exceptions; emergency removal and specified areas.* If any historic or specimen 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 promptly report such actions in that regard to the Village Council. If it is determined by the Village Manager and a Village consultant, if any, that any historic or specimen tree is in need of trimming or pruning and a determination is made by the Village Manager and a Village consultant, if any, that the trimming or pruning will not have an adverse effect on the life or the health of the tree, the Village Manager in conjunction with the Mayor may authorize the trimming or pruning of the tree and report such actions in that regard.

The provisions of Section 5.06 shall not apply to the following specified areas: active municipal recreation areas; utility areas; and tee, fairway, putting green, and other natural or manmade landscape features of a golf course.

4. Annual inspection of historic and specimen trees.

a. The Village Manager in conjunction with a Village consultant, if any, shall conduct an annual inspection of all designated historic and specimen trees within the Village in order to confirm their continued existence and to determine the overall health and/or condition of each tree. If upon the conclusion of the annual inspection it is determined by the Village Manager and a Village consultant, if any, that any historic or specimen tree has been removed or pruned in violation of the terms of this section or if it is otherwise determined that the life or the health of the tree is endangered, the Village Manager shall notify in writing the owner or owners of the land upon which the tree is located of the deficiency noted; and the owner shall be advised of the corrective action deemed necessary by the Village Manager in conjunction with the Mayor.

5. Natural growth to be preserved.

Every effort shall be put forth on all undeveloped property to retain any particular area of natural vegetative cover that is determined by

the Village Manager, in conjunction with the Village arborist, to be a unique, valuable or nearly extinct ecosystem, unless it would unduly restrict the use of surrounding property or create a condition of undue hardship on the owner. In no case shall any tree, plant or shrub that has been determined by the Village Manager and the Village arborist to be of a unique, valuable or nearly extinct ecosystem, be removed, transplanted, damaged or destroyed except with permission duly obtained by application to and after a hearing before the Village Council.

6. Responsibility for historic and specimen trees during construction.

A list of all properties on which historic and/or specimen trees are located shall be maintained by the Village Clerk. Any person applying for a building permit on property that contains a historic/specimen tree shall be required to sign an acknowledgment on a form provided by the Village, of the location of the tree and the responsibility of the applicant for the health and integrity of the tree or trees during construction. Additionally, a historic/specimen tree's drip line location shall be shown on a site plan provided to the Village showing the relation of the tree to the proposed building or construction prior to a building permit being issued. The applicant for the building permit shall provide to the Village a plan which is satisfactory to the Village indicating the manner in which the historic/specimen tree or trees shall be protected from construction activities. The Village may also require a bond in an amount sufficient to protect the trees in the manner intended by this section, said bond to remain in effect until 60 days subsequent to the completion of the construction activities. In the event a historic/specimen tree is damaged or threatened with damage during construction as a direct or indirect result of the construction, all work on the job may be stopped by the Village Manager until the matter is resolved to the satisfaction of the Village. Any decision of the Village Manager in regard to any provisions of this section may be appealed to the Village Council at the next meeting of the council scheduled subsequent to the action of the Village Manager. The Village Council's decision shall be final.

7. Maintenance responsibilities and use fees for historic and specimen trees.

For all historic and specimen trees the maintenance responsibility is borne by the property owner. Private property

owners who choose to may enter into a maintenance agreement with the Village, whereupon the Village shall perform the maintenance responsibilities defined in the agreement. For such maintenance, the private property owner shall be responsible for payment of a fee per tree as determined by the Village Manager. In the absence of a maintenance agreement between the property owner and the Village as described herein, or for major trimming and maintenance not covered by the agreement, the property owner shall be responsible for maintaining and protecting historic and specimen trees in accordance with this division.

SECTION 2: Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict with this Ordinance are repealed.

SECTION 3: Severability. Should any section or provision of this Ordinance or any portion hereof, or 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 4: This Ordinance shall take effect immediately upon passage.

FIRST READING this 16th day of February 2022.

SECOND READING AND FINAL PASSAGE this 16^h day of March 2022.

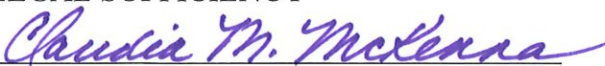
VILLAGE OF GOLF

Michael E. Botos, Mayor

ATTEST:


Donn M. Lynn, Village Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY


Claudia M. McKenna, Village Attorney

(SEAL)

