

CITY OF LABELLE

ORDINANCE 2017-1

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF LABELLE, FLORIDA; AMENDING LABELLE, FLORIDA, LAND DEVELOPMENT CODE, CHAPTER 4-ZONING, ARTICLE V. SUPPLEMENTARY DISTRICT REGULATIONS, SEC. 4-80.16 TREE PROTECTION; PROVIDING FOR TREE REMOVAL BY APPLICATION TO THE CITY COMMISSION FOR THE CITY OF LABELLE; PROVIDING FOR INTENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of LaBelle, “ the City,” is authorized to adopt this Ordinance pursuant to Section 166.041, Florida Statutes; and

WHEREAS, the City Commission of the City of LaBelle is committed to protecting public health, safety and welfare by providing appropriate zoning regulations and standards relative to municipal issues; and

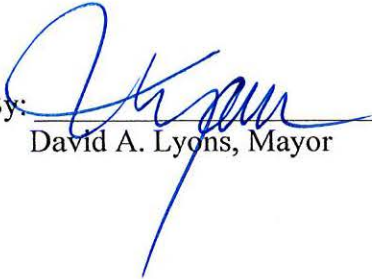
WHEREAS, the City Commission of the City of LaBelle deems it to be in the best interest of the City of LaBelle and the public to amend the LaBelle, Florida, Land Development Code, Chapter 4-Zoning, Article V. Supplementary District Regulations, Sec. 4-80.16 Tree Protection., and that such amendment serves a valid municipal purpose.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF LABELLE, FLORIDA that:

1. After being read by title at two separate and duly advertised public meetings; and, after public hearing held on January 12, 2017, before the City Commission of the City of LaBelle, Ordinance No. 2017-1 is hereby adopted.
2. The City Commission for the City of LaBelle has determined that LaBelle, Florida, Land Development Code, Chapter 4-Zoning, Article V. Supplementary District Regulations, Sec. 4-80.16 Tree Removal., is hereby amended as set forth in Exhibit “A” attached hereto and incorporated herein by reference so that non-administrative tree removal may be allowed by application to the City Commission and that such amendment shall be codified in the LaBelle, Florida, Land Development Code.
3. The City Commission of the City of LaBelle, Hendry County, Florida finds it a necessary and valid municipal purpose and necessity to amend LaBelle, Florida, Land Development Code, Chapter 4-Zoning, Article V. Supplementary District Regulations, Sec. 4-80.16 Tree Removal.
4. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.
5. This Ordinance shall become effective upon adoption.

PASSED AND ADOPTED in open session this ~~12th day January~~ ^{9th February}, 2017.

THE CITY OF LABELLE, FLORIDA

By: 
David A. Lyons, Mayor

Attest:


Thomas A. Smith, Clerk-Commissioner

EXHIBIT "A"

- **4-80.16. Tree protection.**

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4-80.16.1. Intent. It is the intent of the city commission to protect and preserve mature, native trees, particularly significant oak trees within the City of LaBelle. The city commission has determined that the protection and preservation of the oak tree canopy provided by the native oak trees, commonly known as Live Oaks, Laurel Oaks and Water Oaks is important to the health, safety and welfare of the residents of the City of LaBelle, and recognizes the importance of maintaining and renewing the canopy for future generations. The canopy also provides an ambiance that has been a factor in attracting visitors and new residents. Loss of this significant canopy will negatively affect the city, both physically and fiscally. Therefore, the city commission has determined that preservation and replacement of these trees is in the best interest of the City of LaBelle.

While the priority of the city is to preserve and protect significant oaks, it is not the city's intent to restrict the reasonable development of property. Through ~~special-exception~~ application, an applicant may propose an alternative to the requirements of the land development code in an effort to preserve significant oak trees. The city commission will determine whether the preservation of such trees meets the intent of this Code with regard to health, safety and welfare. -mgw

4-80.16.2. Tree removal/relocation permit. A significant oak tree may not be removed or relocated without a tree removal permit. Tree removal permits may be issued by the building official or designee, or ~~through the special-exception application process~~ by application to the City Commission.

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4-80.16.2.1. Administrative tree removal permit. Removal or relocation of significant oak trees may be approved upon a finding that the oak tree(s) satisfies at least one (1) of the following:

1. Poses a safety hazard.
2. Has been weakened by disease, age, storm, fire or other injury.
3. Is so disfigured that it no longer represents a healthy specimen.
4. Is no longer living or is in such a significant state of decline that death is imminent.
5. Is required in order to obtain property insurance. Proof in writing shall be required.

4-80.16.2.2. Tree removal permit ~~by special-exception application~~ by application to city commission. Through ~~special-exception~~ application: to the city commission, the city commission will commission will consider a request for tree removal or relocation. ~~In addition to satisfying the special-exception criteria established in Appendix B, section 4-11(b)(5),~~ The criteria provided below must ~~also~~ be met for consideration of approval of a tree removal application ~~the special-exception:~~

- 1.

- The applicant shall demonstrate that the significant oak tree(s) prevents the reasonable development of the site;
2. That relief from other land development code requirements, such as reduced setbacks or parking lot layout, are not reasonable alternatives for tree preservation; and
 3. That any concessions granted by the city commission for the preservation of significant oak tree(s) shall not adversely impact adjacent properties.

4-80.16.2.3. *Removal or relocation approval in conjunction with public hearing development approval.* When tree removal or relocation is contemplated in conjunction with development requiring public hearing approval of a development plan or subdivision plat, such removal or relocation shall be considered by the city commission as part of the development review process and a separate tree removal application is not necessary.

Consideration by the city commission shall be based upon the criteria established in section **4-80.16.2.2.** Development plans and/or plats must include tree removal application materials as described in section **4-80.16.3.**

4-80.16.2.4. *Mitigation.* Through tree removal special-exception application, the city commission may also consider relief of requirements of the land development code to preserve native oak trees that have less than twelve-inch but more than six-inch caliper, measured at DBH through the tree removal application special-exception process. The criteria for consideration shall be the same as described in section **4-80.16.2.2.**

4-80.16.2.5. *Exceptions.* Exceptions to the requirement for a tree removal permit are as follows:

- A. *Natural emergencies or disasters.* Upon declaration of a state of emergency by the city mayor or city commission, issuances of permits for the removal of damaged trees may be waived by the city superintendent of public works. Such waiver may not be for an indefinite period and shall expire when the mayor or city commission determines that emergency conditions have ended.
- B. *Dead oak trees.* If the superintendent of public works or his designee determines that a tree is dead, then no permit shall be required. Replacement trees shall not be required if the oaks on the subject property meet or exceed the current tree requirement of the landscape code.

4-80.16.3. *Application for tree removal permit.*

4-80.16.3.1. *Tree removal permit—Administrative issuance.*

1. Application requesting removal due to structural damage shall include verification from a certified engineer in the State of Florida that the significant oak tree(s) is currently or will in the near future cause structural damage to existing structures. Verification will include identification of the tree(s) causing structural problems, and will provide an explanation of the concern. Written verification will be sealed by the engineer of record.
2. At the discretion of the city staff reviewer, application requesting removal of a significant tree(s) due to a decline in health may require verification of claim(s) from a qualified tree expert. An expert shall be an individual, in the State of Florida, that is: an official horticulturalist with IFAS, a certified horticulturalist, a master gardener, a licensed

landscape architect certified in the State of Florida, certified arborist, or an urban forester. The verification letter shall identify the weakened tree(s) and shall provide an explanation of the problem, and state the qualifications of the tree expert.

4-80.16.3.2. *Application consideration by city commission via [tree removal application](#) **special exception**.* Application shall be initiated by submittal of a [tree removal special-exception](#) application and the associated application materials and will include the following additional information:

1. The location and type of significant oak tree(s) proposed for removal or relocation;
2. A statement (narrative) addressing the following:
 - a. Why the significant oak tree(s) prevents reasonable development, and
 - b. What alternatives the applicant has considered and why these alternatives cannot be used;
3. Demonstration of consideration of relief from other land development code requirements that might enable development to proceed and avoid tree removal;
4. Description of method of removal or relocation to be used; and
5. Description of how other significant oak trees or groups of trees will be protected during any approved tree removal or relocation and any associated construction or clearing.