



# CITY OF ANNA MARIA

P.O. Box 779, 10005 Gulf Drive, Anna Maria, FL 34216 Phone (941) 708-6130 Fax (941) 708-6134

## AGENDA AUGUST 31, 2018 AT 10:00 A.M. CITY COMMISSION SPECIAL MEETING **AMENDED**

**Pledge of Conduct:** We may disagree, but we will be respectful of one another. We will direct all comments to the issues. We will avoid personal attacks.

CALL TO ORDER

PLEDGE TO THE FLAG

ROLL CALL

### SPECIAL MEETING

General Public Comment regarding non-agenda items and items not scheduled for future agendas will be taken at the end of the meeting with a limitation of three minutes. The Commission's intent is that General Public comment is to be used for the public to inform the Commission of new issues within the City. Public Comment regarding agenda items will be taken with each agenda item with a limitation of three minutes.

1. Landscape Ordinance
2. Ordinance 74-64 and 74-65
3. General Public Comment

Press Comment

Adjournment

 (FSS 286.26) IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATE STATUTES, PERSONS WITH DISABILITIES NEEDING SPECIAL ASSISTANCE TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE CITY CLERK FOR ASSISTANCE AT LEAST THREE BUSINESS DAYS PRIOR TO THE MEETING (941) 708-6130. SHOULD ANY INTERESTED PARTY SEEK TO APPEAL ANY DECISION MADE WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, THEY WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS BE MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.





**ORDINANCE NO. 18-838**

**AN ORDINANCE OF THE CITY OF ANNA MARIA, FLORIDA, MAKING FINDINGS; AMENDING SUB-SEC. (H), "GRAND TREES," OF SEC. 114-420, "PLANTINGS—LANDSCAPE AND TREES," OF ARTICLE VI, "SUPPLEMENTAL REGULATIONS," OF CHAPTER 114, "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF ANNA MARIA TO REVISE DEFINITION OF GRAND TREE AND MAKE A REFERENCE; AND AMENDING CHAPTER 34, "OFFENSES", BY THE ADDITION OF SECTION 34-4 TO PROVIDE PENALTIES FOR, AND OTHER PROVISIONS REGARDING, THE INTENTIONAL REMOVAL, RELOCATION, DESTRUCTION OF A GRAND TREE; AND PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ANNA MARIA, FLORIDA THAT:**

**WHEREAS**, the City Commission of the City of Anna Maria finds that the tree canopy of the city is one of its most treasured resources; and

**WHEREAS**, due to construction and storms, there has been a great reduction in grand trees in the City; and

**WHEREAS**, the City Commission of the City of Anna Maria finds that it is imperative that there be a disincentive to the needless destruction of grand trees; and

**WHEREAS**, this ordinance is needed to protect the health, safety and welfare of the citizens of Anna Maria and visitors to Anna Maria.

**SECTION 1.** The City Commission finds that the above "Whereas" clauses are true, and finds that the enactment of this ordinance is necessary to protect the health, safety and welfare of the citizens of Anna Maria and visitors to Anna Maria.

**SECTION 2.** Sub-sec. (h), "Grand Trees," of Sec. 114-420, "Plantings—Landscape and trees," of Article VI, "Supplemental Regulations," of Chapter 114, "Zoning" of the Code of Ordinances of the City of Anna Maria is hereby amended to read as follows:

**Sec. 114-420. - Plantings—Landscape and trees**

\* \* \*

(h) Grand Trees. The removal, relocation, destruction of any grand tree, defined as any tree with an 8-inch caliper or greater measured at breast height, 4.5 feet

above ground level excluding ficus and Australian pine trees, is prohibited unless it can be demonstrated to the satisfaction of the city commission that the location of the grand tree renders the lot or parcel as non-buildable, the grand tree is a hazard or severely diseased, or denial of the removal of the grand tree will result in an extreme hardship for the property owner, as determined by the city commission after a quasi-judicial hearing. See Sec. 34-4 for additional regulations regarding grand trees.

**SECTION 3.** Chapter 34, "Offenses" of the Code of Ordinances of the City of Anna Maria is hereby amended to add Section 34-4, "Grand Trees" to read as follows:

Sec. 34-4. Grand Trees

The intentional removal, relocation, destruction of any grand tree, defined as any tree with an 8-inch diameter or greater measured at breast height, 4.5 feet above ground level, excluding ficus and Australian pine trees, is prohibited unless it can be demonstrated to the satisfaction of the city commission, that the location of the grand tree renders the lot or parcel as non-buildable, the grand tree is a hazard or severely diseased, or denial of the removal of the grand tree will result in an extreme hardship for the property owner, as determined by the city commission after a quasi-judicial hearing.

If the removal of a grand tree is permitted by the city commission, the city commission shall have the authority to require that replacement tree(s) of a type and size agreed to by the city commission after hearing a recommendation by a certified arborist, be planted on the same lot or parcel.

As to any replacement tree(s) on the same lot or parcel required by the city commission, such replacement tree(s) must be guaranteed by the seller of the tree(s) for no less than one year, and properly maintained by the property owner for a period of one year, so that if after one year the replacement tree(s) are not in healthy condition, as determined by an arborist, such replacement tree(s) will be required to be replaced by other replacement tree(s).

Alternatively to requiring replacement tree(s) on the applicant's lot or parcel, the city commission shall have the authority to require the payment to the city's tree replacement fund in an amount to pay for the acquisition and planting of tree(s) on city property which will result in approximately the same amount of shade/canopy potential within one year as the grand tree removed. The city commission shall hear testimony from a city representative as to the funds needed to purchase and plant such tree(s).

In the event a grand tree is intentionally removed, relocated or destroyed without the advance permission of the city commission, such action shall constitute irreparable and irreversible harm to the city, and the Special Magistrate shall have the authority to assess a fine up to and including \$5,000.00 as to each and every

violator, and/or require the violator(s) to replace the grand tree with a tree of equal or larger size of the same or comparable species (as determined by the Mayor) in a location on the same lot from which it was removed in a location approved by the Mayor. As to any replacement tree(s) on the same lot or parcel required by the Special Magistrate, such replacement tree(s) must be guaranteed by the seller of the tree(s) for no less than one year, and properly maintained by the property owner for a period of one year, so that if after one year the replacement tree(s) are not in healthy condition, as determined by an arborist, such replacement tree(s) will be required to be replaced by other replacement tree(s).

Alternatively, the Special Magistrate shall have the authority to assess a fine up to and including \$5,000.00 as to each and every violator, and/or require the violator(s) to pay an amount to the city's tree replacement fund in an amount to pay for the acquisition and planting of tree(s) on city property which will result in approximately the same amount of shade/canopy potential within one year as the grand tree removed. The Special Magistrate shall hear testimony from a city representative as to the funds needed to purchase and plant such tree(s).

The violator under this sub-section shall include the owner(s) of the property, the person who removes, relocates or destroys the grand tree, and any contractor who has an active building permit as to the property on which the grand tree was located.

**SECTION 4. CONFLICTS.** All Ordinances or parts of Ordinances, insofar as they are inconsistent or in conflict with the provisions of this Ordinance, are hereby repealed to the extent of any conflict.

**SECTION 5 CODIFICATION.** The provisions of this Ordinance shall be codified as and become and be made a part of the Code of Ordinances of the City of Anna Maria. The sections of this Ordinance may be renumbered or relettered to accomplish such intention.

**SECTION 6. SEVERABILITY.** In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance, is contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid, illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and void, and shall be deemed severed, and a separate, distinct, and independent provision from the remaining provisions of this ordinance, and such holding shall in no manner affect the validity of the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this Ordinance, which shall remain in full force and effect. This ordinance shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this ordinance as expressed herein.

**SECTION 7. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its final passage and adoption.

**PASSED AND ADOPTED**, by the City Commission of the City of Anna Maria, Florida, in regular session assembled, this 14<sup>th</sup> day of June, 2018.

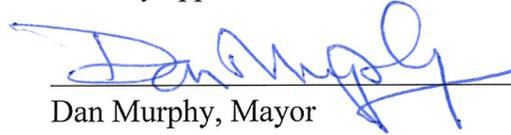
Doug Copeland, Commissioner  
Amy Tripp, Commissioner  
Bryan Seymour, Commissioner  
Carol Carter, Commissioner  
Dale Woodland, Commissioner



\_\_\_\_\_

Doug Copeland, Chairman

I hereby approve this Ordinance:

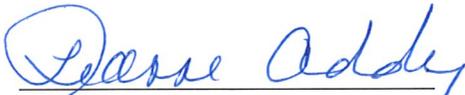


\_\_\_\_\_

Dan Murphy, Mayor

06.15.18, 2018

ATTEST:



\_\_\_\_\_

LeAnne Addy, City Clerk

Approved as to form and legality for  
the use and reliance of the City of  
Anna Maria only



\_\_\_\_\_

Gretchen R. H. "Becky" Vose  
City Attorney

Sec. 74-64. - Conditions of the local development permit.

A local development permit issued shall be construed to be a license to proceed with the work and not as authority to violate, cancel, alter or set aside any of the provisions of the technical codes, nor shall issuance of a local development permit prevent the building official from thereafter requiring a correction of errors in plans, construction, or violations of this Code. Every local development permit issued shall become invalid unless the work authorized by such local development permit is commenced within six months after its issuance, or if the work authorized by such local development permit is suspended or abandoned for a period of six months after the time the work is commenced. Failure to obtain an approved inspection within 180 days of the previous approved inspection shall constitute suspension or abandonment. One or more extensions of time, for periods not more than 180 days each, may be allowed by the building official for the local development permit, provided the extension is requested in writing and justifiable cause is demonstrated prior to the expiration date. The building official shall record the extension of time granted.

- (1) If work has commenced and the local development permit is revoked, becomes null and void, or expires because of lack of progress or abandonment, a new local development permit covering the proposed construction shall be obtained before proceeding with the work.
- (2) If a new local development permit is not obtained within 180 days from the date the initial local development permit became null and void, the building official is authorized to require that any work which has been commenced or completed be removed from the building site. Alternately, a new local development permit may be issued on application, providing the work in place and required to complete the structure meets all applicable regulations in effect at the time the initial local development permit became null and void and any regulations which may have become effective between the date of expiration and the date of issuance of the new local development permit.
- (3) Work shall be considered to be in active progress when the local development permit when no more than 180 days has passed since the most recent approved inspection. This provision shall not be applicable in case of civil commotion or strike or when the building work is halted due directly to judicial injunction, order or similar process.

Sec. 74-65. - Period of completion of work under local development permit.

Subject to the conditions of the development permit, any construction of any building must be completed within 12 months from the date of the issuance of a local development permit, unless the owner qualifies for an extension. The owner qualifies for an extension if the building is subject to a stop work order issued by the building official and the permittee seeks relief through the code enforcement board. The time frame from the issuance of the stop work order until the removal of the stop work order after review before the code enforcement board, and any subsequent judicial review, will be added to the local development permit's one-year time frame. If construction is not completed within the time frame as stated above, the city will not issue a certificate of occupancy, and the owner will have to reapply to the city for a new local development permit. Upon reapplying to the city for a new local development permit, the owner will have two options: (1) the owner may renew the local development permit for another year and pay again to the city a fee equal to the original fee for such the original local development permit, or (2) the owner may pay ten percent of the cost of the original local development permit for each month the applicant exceeds the expiration date, including extensions, of the original local development permit up to a maximum of six months from the date the original local development permit expires. If the building does not have an unconditional certificate of occupancy after six months, the applicant must then obtain a new local development permit and pay to the city a fee equal to the fee for the original local development permit. The new local development permit shall provide that the building must be completed within one year or a certificate of occupancy shall not be issued and a further local development permit will be necessary.

( Ord. No. 11-723, § 8, 9-22-11. )

**ORDINANCE NO. 18-841**

**AN ORDINANCE OF THE CITY OF ANNA MARIA, FLORIDA, REPEALING THE EXISTING SECTION 74-65, "PERIOD OF COMPLETION OF WORK UNDER LOCAL DEVELOPMENT PERMIT" OF CHAPTER 74, "BUILDINGS AND BUILDING REGULATIONS", OF THE CODE OF THE CITY OF ANNA MARIA; AND REPLACING IT WITH A NEW SECTION 74-65 BY PROVIDING FOR CIVIL PENALTY FOR NOT COMPLETING CONSTRUCTION OF SINGLE FAMILY RESIDENCES WITHIN FIFTEEN MONTHS; PROVIDING FOR APPEAL RIGHTS AND SPECIAL MAGISTRATE INVOLVEMENT; AND PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND FOR AN EFFECTIVE DATE.**

**WHEREAS**, construction of single family residences in the City of Anna Maria is a common occurrence; and

**WHEREAS**, construction activities have a significantly negative impact on the residents of, and visitors to, Anna Maria in the immediate vicinity of the construction due to noise, interference with traffic, dust and dirt, unsightly appearance, and a general disruption in the day to day life in the neighborhood in the vicinity of the construction; and

**WHEREAS**, the City of Anna Maria finds that it is in the best interest of the City and its residents and visitors to balance the rights of persons constructing residences in the City of Anna Maria with the rights of residents and visitors to be free of the negative impacts of construction activities; and

**WHEREAS**, the City of Anna Maria finds that generally if the builder of a single family residence diligently pursues the construction, such construction can reasonably be completed in a period of time not to exceed fifteen (15) months; and

**WHEREAS**, the City of Anna Maria finds that it is not reasonable for the residents in a neighborhood to have to put up with the serious inconvenience and disruption of daily life resulting from construction of a residence in the neighborhood which takes over fifteen (15) months to complete; and

**WHEREAS**, the City of Anna Maria is attempting in this ordinance to discourage through a civil penalty process, builders from not diligently and swiftly completing construction of single family residences; and

**WHEREAS**, the City of Anna Maria finds that often builders construct multiple residences concurrently, and due to sometimes using the same sub-contractors in the construction of multiple residences, construction can be unnecessarily delayed, thereby resulting in disruption of the neighborhood for an extended period of time; and

**WHEREAS**, the City of Anna Maria finds that it is generally reasonable to expect a builder to be able to complete the construction of a single family residence within a period of fifteen (15) months if the builder diligently pursues the construction; and

**WHEREAS**, this Ordinance is adopted under the City's police powers for the health, safety, and welfare of the City's residents and visitors.

**NOW, THEREFORE**, be it ordained by the City of Anna Maria that:

**SECTION 1:** The City Commission finds that the above "Whereas" clauses are true, and finds that the enactment of this ordinance is necessary to protect the health, safety and welfare of the citizens of Anna Maria and visitors to Anna Maria.

**SECTION 2:** Section 74-65, "Period of completion of construction of single family residences~~work under local development permit~~" of Chapter 74, "Buildings and Building Regulations", of the Code of the City of Anna Maria, is hereby amended to read as follows:

**Sec. 74-65. - Period of construction of single family residences~~completion of work under local development permit.~~**

~~Subject to the conditions of the development permit, any construction of any building must be completed within 12 months from the date of the issuance of a local development permit, unless the owner qualifies for an extension. The owner qualifies for an extension if the building is subject to a stop work order issued by the building official and the permittee seeks relief through the code enforcement board. The time frame from the issuance of the stop work order until the removal of the stop work order after review before the code enforcement board, and any subsequent judicial review, will be added to the local development permit's one-year time frame. If construction is not completed within the time frame as stated above, the city will not issue a certificate of occupancy, and the owner will have to reapply to the city for a new local development permit. Upon reapplying to the city for a new local development permit, the owner will have two options: (1) the owner may renew the local development permit for another year and pay again to the city a fee equal to the original fee for such the original local development permit, or (2) the owner may pay ten percent of the cost of the original local development permit for each month the applicant exceeds the expiration date, including extensions, of the original local development permit up to a maximum of six months from the date the original local development permit expires. If the building does not have an unconditional certificate of occupancy after six months, the applicant must then obtain a new local development permit and pay to the city a fee equal to the fee for the original local development permit. The new local development permit shall provide that the building must be completed within one year or a certificate of occupancy shall not be issued and a further local development permit will be necessary.~~

In every instance in which a building permit is issued for the construction of a single family residence in the City of Anna Maria after the effective date of this ordinance, the construction

of the residence shall be diligently pursued and completed within a period not to exceed fifteen (15) months from the date of the issuance of the building permit.

A civil penalty against the person or entity who obtained the building permit, (hereinafter “builder”) in the amount of \$ \_\_\_\_\_ per day shall be assessed for every day beyond fifteen (15) months after the date of the issuance of the building permit until the date a certificate of occupancy is issued for the residence. Such civil penalty shall be due on the date of the issuance of the certificate of occupancy; provided, however, payment of the civil penalty shall not be a condition precedent to the issuance of a certificate of occupancy.

An appeal of the civil penalty may be filed with the City Clerk no later than ten (10) days after the issuance of a certificate of occupancy, and the appeal shall be scheduled before the Special Magistrate. The Special Magistrate shall make a determination as to the reasonableness of the time period taken to construct the residence and shall consider the testimony of the builder, the testimony of the owner of the property, the testimony of the building official, the testimony of any member of the public with knowledge of the construction activity, and/or the testimony of other interested persons as reasonably determined by the Special Magistrate. If the Special Magistrate determines that the time period to construct the residence was excessive under the circumstances, or the builder did not diligently pursue the construction of the residence, the Special Magistrate may confirm the civil penalty, or reduce it as appropriate, and such civil penalty as determined by the Special Magistrate shall be considered a judgment against the builder enforceable in the same manner as a court judgment. If the Special Magistrate determines that the time period to construct the residence was not excessive under the circumstances, and the builder did diligently pursue the construction of the residence, the Special Magistrate shall find in favor of the builder, and the civil penalty shall be dismissed. In addition, the Special Magistrate shall make a determination as to whether the civil penalty, if confirmed, shall become a lien on the real property of the residence, or if the civil penalty shall be deemed a judgment against the builder enforceable in the same manner as a court judgment, or both.

If no appeal is filed, then the civil penalty shall be presented at the next scheduled Special Magistrate hearing, and the Special Magistrate shall make a determination as to whether the civil penalty shall become a lien on the real property of the related residence, or if the civil penalty shall be deemed a judgment against the builder enforceable in the same manner as a court judgment, or both. In making that determination, the Special Magistrate shall consider the testimony of the builder, the testimony of the owner of the residence, the testimony of the building official, the testimony of any member of the public with knowledge of the construction activity, and/or the testimony of other interested persons as reasonably determined by the Special Magistrate.

**SECTION 3. CONFLICTS.** All Ordinances or parts of Ordinances, insofar as they are inconsistent or in conflict with the provisions of this Ordinance, are hereby repealed to the extent of any conflict.

**SECTION 4. CODIFICATION.** The provisions of this Ordinance shall be codified as and become and be made a part of the Code of Ordinances of the City of Anna Maria. The sections of this Ordinance may be renumbered or relettered to accomplish such intention.

**SECTION 5. SEVERABILITY.** In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance on which shall remain in full force and effect.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its final passage and adoption.

**PASSED AND ADOPTED,** by the City Commission of the City of Anna Maria, Florida, in regular session assembled, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Doug Copeland, Commissioner  
Amy Tripp, Commissioner  
Brian Seymour, Commissioner  
Carol Carter, Commissioner  
Dale Woodland, Commissioner

\_\_\_\_\_  
Doug Copeland, Chairman

I hereby approve this Ordinance:

\_\_\_\_\_  
Dan Murphy, Mayor

\_\_\_\_\_, 2018

ATTEST:

Approved as to form and legality for  
the use and reliance of the City of  
Anna Maria only

\_\_\_\_\_  
LeAnne Addy, City Clerk

\_\_\_\_\_  
Gretchen R. H. "Becky" Vose  
City Attorney