BEFORE THE CITY COMMISSION

CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2478-2022

AN ORDINANCE OF THE CITY OF STUART, FLORIDA, AMENDING THE EXISTING SECTION OF CHAPTER V RESOURCE PROTECTION STANDARDS OF THE CITY'S LAND DEVELOPMENT CODE, ESTABLISHING "PENALTIES FOR VIOLATIONS" FOR THE REMOVAL OF TREES IN VIOLATION OF THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the City Commission, has determined the need to establish a range of penalties for removal of any tree from any property in violation of Chapter V Resource Protection Standards of the City's Land Development Code; and

WHEREAS the purpose of this Land Development Code Amendment is to establish certain penalties for removal of trees in violation of the code; and

WHEREAS, the Land Development Code amendments were presented to the Local Planning Agency on 9th December, 2021; and

WHEREAS, the City Commission duly scheduled, advertised, and held a public hearing on 2.28.2022, to consider this ordinance and provide for full public participation in the Land Development Code amendment process.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA THAT:

SECTION 1: CHAPTER V 'Resource Protection Standards of Stuart Land Development Code is amended to read as follows:

CHAPTER V : RESOURCE PROTECTION STANDARDS

SECTION 5.05.08 PENALTIES FOR VIOLATIONS

Except as otherwise provided in this Code, each violation of the provisions of this Code chapter that involves more than 1,500 square feet of land shall be deemed a separate violation. The owner of the real property as well as the person who caused the violation to occur shall be deemed the alleged violators.

The Stuart Code Enforcement Board may determine in a proper case that a violation of any provision of this chapter may be irreparable or irreversible in nature pursuant to F.S. chapter 162. Accordingly, said Board shall have the authority to impose a fine of up to $5,000 for each violation found.

Upon a finding by the City Development Director that a violation has occurred, notice of the violation shall be provided to the alleged violator(s) that specifies the nature of the violation and directs that a fine be paid in accordance with the following language.

Failure to pay the fine as directed by the City Development Director shall be deemed a violation of this Code enforceable through proceedings before the City Code Enforcement Board.

Any person who removes any tree from any property in violation of this Code shall be subject to the following penalties: If historic and/or specimen trees are removed without a permit or otherwise in violation of Section 5.05.00 of the City's Land Development Code, then a penalty calculation for the replacement of the required DBH inches shall be applied. The calculation shall be determined by using the total DBH inches removed. The amount of replacement DBH inches shall be calculated in accordance with the City's Tree replacement formula as contained within Section 5.05.00 of this Code excepting that the replacement DBH inches will be calculated at **three times the amount for every offense**. Each tree removed in violation of this article, or any permit issued pursuant to this article shall constitute a separate violation. Remedial action shall be taken to restore the property consistent with a restoration plan approved by the Development Director and/or payment into the city tree replacement fund in an amount equal to the cost of the three (3) to one (1) ratio as applied herein with preference given to restoration of the property. No certificate of occupancy or similar authorization shall be issued for any development until all applicable permits or restoration plan conditions have been accomplished.

Monies shall be paid to the City and failure to make payment shall be deemed a violation of this Code. Unless and until paid, the Development Department may withhold the issuance of further development orders for development on the subject property including building permits and certificates of occupancy.

SECTION 2: Section 5.05.08 Penalties for Violations of the stuart Land Development Code, is amended as follows:

CHAPTER 5 PENALTIES FOR VIOLATIONS

5.05.08 Tree Removal; Penalties for Violations.

A. A tree removal permit must be issued by the City Development Department for work undertaken pursuant to this Chapter V of this Code.

B. Any person who removes any tree from any property in violation of this Code shall be subject to the following penalties:

If historic and/or specimen trees are removed without a permit or otherwise in violation of Section 5.05.00 of the City's Land Development Code, then a penalty calculation for the replacement of the required DBH inches shall be applied. The calculation shall be determined by using the total DBH inches removed. The amount of replacement DBH inches shall be calculated in accordance with the City's Tree replacement formula as contained within Section 5.05.00 of this Code excepting that the replacement DBH inches will be calculated at **three times the amount for every offense**. Each tree removed in violation of this article, or any permit issued pursuant to this article shall constitute a separate violation. Remedial action shall be taken to restore the property consistent with a restoration plan approved by the Development Director and/or payment into the city tree replacement fund in an amount equal to the cost of the three (3) to one (1) ratio as applied herein with priority given to restoration of the property. No certificate of occupancy or similar authorization shall be issued for any development until all applicable permits or restoration plan conditions have been accomplished.

C. Monies shall be paid to the City and failure to make payment shall be deemed a violation of this Code. Unless and until paid, the Development Department may withhold the issuance of further development orders for development on the subject property including building permits and certificates of occupancy.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: If any section, sentence, clause, phrase, or word of this ordinance is

for any reason declared to be unconstitutional, inoperative, or void, such holding shall

not affect the remaining portions of this ordinance and the remaining portions shall be deemed and held to be valid.

SECTION 5: The provisions of this ordinance shall be codified.

SECTION 6: Upon complete execution of this Ordinance, the City Clerk is directed to record a Certified Copy of the same in the Public Records of Martin County, Florida.

Passed on first reading the ____ day of _____, 2022.

Commissioner _____ offered the foregoing Ordinance and moved its adoption.

The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

	YES	NO	ABSENT	ABSTAIN
MERRITT MATHESON MAYOR				
TROY MCDONALD, VICE MAYOR				
BECKY BRUNER, COMMISSIONER				
EULA R. CLARKE, COMMISSIONER				
MIKE MEIER, COMMISSIONER				

ADOPTED on second and final reading this _____day of _____, 2022.

ATTEST:

_____ _____

MARY R. KINDEL
CITY CLERK

MERRITT MATHESON
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

_____
MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY

CITY'S ACKNOWLEDGMENT

The above Ordinance was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 2022, by Merritt Matheson, Mayor, and Mary R. Kindel, City Clerk, respectively, of the City of Stuart, Florida, a Florida municipal corporation, who ☐ are personally known to me or ☐ have produced _____as identification.

(Notary Seal)

_____

Signature of Notary Public
Printed Name: _____