



# CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 4/25/06

SUBJECT: An ordinance amending the nuisance tree ordinance.

DEPARTMENT: City Attorney

RECOMMENDED MOTION:

Approval of Ordinance No. 2006-14 amending Sections 42-2 and 42-3, Article 1 of the Code of Ordinances, City of Port Orange, Florida.

SUMMARY:

Currently, the nuisance tree ordinance is limited to removal of sand pines that are leaning 45 degrees or more, or sand pines that are diseased, damaged or otherwise a hazard to public rights-of-way or public property. The amendment expands the enforcement to all trees species that are a such a hazard.

ATTACHMENTS:  Ordinance  Resolution  Budget Resolution

Other  Support Documents/Contracts Available for Review in Manager's Office

DEPARTMENT HEAD	NA	Date
FINANCE DEPARTMENT	NA	Date
<i>ksk</i> CITY ATTORNEY <i>[Signature]</i>	Approved as to Form and Legality	Date 4/12/06
CITY MANAGER <i>[Signature]</i>	Approved Agenda Item For:	4/25/06

COUNCIL ACTION:  Approved as Recommended  Disapproved  Tabled Indefinitely  
 Continued to Date Certain  Approved with Modification:

ORDINANCE NO. 2006-14

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING ARTICLE I, SECTION 42 OF THE CODE OF ORDINANCES, CITY OF PORT ORANGE, FLORIDA, RELATING TO UNSAFE CONDITIONS, DECLARATION OF NUISANCE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, for purposes of this Ordinance text with underlined (underlined) type shall constitute additions to the original text and text with strike-through (~~strike-through~~) type shall constitute deletions to the original text.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The City Council hereby amends Section 42-2, Article I of the Code of Ordinances, City of Port Orange, Florida as follows:

**Sec. 42-2. Definitions.**

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

- (a) *Nuisance tree*, means a tree that poses a hazard or threat to public health, safety or welfare by threatening the public rights-of-way, public property, occupied public easements or the provision of public utilities.

Section 2. The City Council amends Section 42-3, Article I of the Code of Ordinances, City of Port Orange, Florida as follows:

**Sec. 42-3. Declaration of Nuisance.**

It is declared and determined by the City Council that the following shall each individually or in combination be considered a nuisance when they exist upon any lot, lots or adjacent lots, within the City of Port Orange.

(a) A nuisance tree shall be subject to immediate removal when determined to be a public hazard in the opinion of the code enforcement official of the City of Port Orange consistent with the following standards:

1. Sand pine (pinus clausa) leaning 45 degrees or more from vertical.
2. Sand pine (pinus clausa) leaning less than 45 degrees from vertical and other types of trees having special conditions, disease or damage constituting them a nuisance tree ~~making them a hazard~~ in the opinion of the professional forester, botanist or landscape architect.

Section 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 5. This ordinance shall become effective immediately upon final passage by the City Council.

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MAYOR ALLEN GREEN

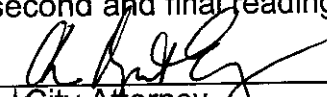
ATTEST:

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Kenneth W. Parker, City Manager

Passed on first reading on the      day of

Passed and adopted on second and final reading on the      day of

Reviewed and Approved:

  
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City Attorney