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3 **ORDINANCE NO. 2016-008**

4 **AN ORDINANCE OF THE TOWN OF HOWEY-IN-THE-HILLS,**
5 **FLORIDA PERTAINING TO TREE PROTECTION; AMENDING THE**
6 **LAND DEVELOPMENT CODE BY AMENDING THE DEFINITIONS OF**
7 **“HISTORIC TREES” AND SPECIMEN TREES IN SECTION 1.12.00 OF**
8 **CHAPTER 1; AMENDING SECTIONS 7.11.00, 7.12.00, AND 7.13.00 OF**
9 **CHAPTER 7 TO PROVIDE CLARIFICATION REGARDING THE TYPES**
10 **OF PROTECTED TREES, CLARIFY WHEN A TREE REMOVAL**
11 **PERMIT IS REQUIRED, PROVIDE FOR AND SPECIFY WHEN**
12 **MITIGATION FOR REMOVING TREES IS REQUIRED, PROVIDE FOR**
13 **AN APPEAL PROCESS WHEN A TREE REMOVAL PERMIT IS DENIED**
14 **OR MITIGATION IS REQUIRED, AND SPECIFY STANDARDS FOR**
15 **TREE TRIMMING AND CUTTING; RENUMBERING SECTIONS 7.14.00**
16 **AND 7.15.00 OF CHAPTER 7; PROVIDING FOR CONFLICTING**
17 **ORDINANCES, SEVERABILITY, CODIFICATION AND AN EFFECTIVE**
18 **DATE.**

19 **WHEREAS,** the Town Council of the Town of Howey-in-the-Hills, Lake County,
20 Florida, has adopted a comprehensive plan pursuant to, and in compliance with 163.3161 et.
21 Seq., Florida Statutes.

22 **WHEREAS,** the Town Council, as authorized by 163.3202, Florida Statutes, has enacted
23 and does enforce the Town’s Land Development Code, based on, related to, and as a means to
24 implement its adopted comprehensive plan.

25 **WHEREAS,** the Town Council has determined that it is necessary to amend its Land
26 Development Code as herein provided in order to more effectively implement its adopted
27 comprehensive plan.

28 **WHEREAS,** The Town Council has determined the proposed amendments are consistent
29 with its adopted comprehensive plan.

30 **WHEREAS,** the Planning and Zoning Board has reviewed the proposed amendment and
31 provided a recommendation to the Town Council.

32 **WHEREAS,** the Town Council has determined the proposed amendments are consistent
33 with its adopted comprehensive plan.

34 **WHEREAS,** the Town Council has decided it is appropriate to amend the Town’s
35 adopted Land Development Code.

36 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF HOWEY-IN-THE-**
37 **HILLS, FLORIDA:**

1 **Section 1.** The Town Council hereby approves the revisions to Chapters 1 and 7 of the
2 Land Development Code for the Town of Howey-in-the-Hills as indicated by the underlined and
3 strikethrough language in the amended Land Development Code attached hereto as **Attachment**
4 **A.**

5 **Section 2.** If any section, subsection, sentence, clause, phrase, or portion of this
6 Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court,
7 such portion or application shall be deemed a separate, distinct, and independent provision, and
8 such holding shall not affect the validity of the remaining portions or application hereof.

9 **Section 3.** All ordinances made in conflict with this Ordinance are hereby repealed.

10 **Section 4.** All other provisions of the Land Development Code shall remain unchanged,
11 ratified, and confirmed by this ordinance.

12 **Section 5.** The revisions reflected in the Attachments shall be codified and incorporated
13 into the Land Development Code of the Town of Howey-in-the-Hills, Lake County, Florida.

14 **PASSED AND ORDAINED** this 9th day of January, 2017, by the Town Council of the
15 Town of Howey-in-the-Hills, Florida.

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Christian Sears, Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY
for use and reliance by the Town of Howey-in-the-
Hills, Florida, only.

Brenda Brasher, MMC
Town Clerk

Heather M. Ramos
Town Attorney

First Reading Held December 12, 2016
Second Reading and Adoption Held January 9, 2017
Advertised on December 21, 2016

1 ATTACHMENT A

2
3 Amendments to the Land Development Code
4

5 **CHAPTER 1**

6 *Historic Tree* is defined as any ~~trees, except for pines and palms, live oak or bald cypress with a~~
7 ~~trunk diameter of thirty-six (36) inches or more which~~ measures ~~36 inches or more~~ at DBH or any
8 tree which is determined by the Town Council to have a unique and intrinsic value to the general
9 public because of its size, age, historic association, location, unique beauty or ecological value.

10 *Specimen tree* is any tree, ~~other than an undesirable tree except for pines and palms, on the~~
11 ~~Approved Tree List (Refer to Section 7.10.00)~~ that is twenty (20) inches or more in diameter
12 measured at DBH.

13
14 **CHAPTER 7**

15 **7.11.00 TREES**

16 **7.11.01 Tree Protection**

- 17 A. No application for a building permit, land clearing permit, site development permit,
18 subdivision development permit, or grading and filling permit may be issued by the
19 Building Official until the Building Official or a site inspector appointed by the
20 Building Official has visited the site and determined that the tree protection
21 measures are in place in accordance with this chapter and the approved site or
22 subdivision plans.
- 23 B. During construction, to ensure the health and survival of protected trees that are not
24 to be removed, the developer shall avoid the following types of tree injuries during
25 all development activities:
 - 26 1. Mechanical injuries to roots, trunk, and branches. To protect against
27 mechanical injuries to roots, trunk and branches:
 - 28 a. All existing trees that are to remain shall have barriers constructed around
29 the tree at the drip line or around the combined drip line of any clumps of
30 trees. Barriers are to be inspected by the Town prior to the start of any
31 construction.
 - 32 b. The minimum size of such wood barrier fencing shall be two inches (2") by
33 four inches (4") and the top of the barrier shall be a minimum of four feet
34 (4') high. Another acceptable means of barricading trees is the use of
35 orange plastic construction fence, four feet (4') high, and supported every
36 eight feet (8') by a No. 5 rebar, driven into the ground. Fencing shall be
37 securely attached to rebar by the use of nylon zip ties or twisted wire.
38 Barricades must be taut and perpendicular to the ground. No construction
39 activity, cuts, fill, debris disposal or vehicular traffic is to take place within
40 this area. Additionally, the storage or placement of material, machinery, or

1 other construction equipment or substances is prohibited within the drip line
2 area.

3 c. Any waiver or request to construct barriers within the drip line shall be
4 reviewed by the Town. Where drip lines of existing trees overlap, the
5 orange mesh fencing or the wood barriers shall be erected around the outer
6 perimeter of the combined drip lines.

7 d. If turf block is specified to reduce the impact of impervious surface around
8 the drip line of existing trees, it shall be constructed as follows: Prior to
9 excavation, the limits of excavation should be root pruned to a depth of
10 thirteen inches (13"); after removal of existing soil to that depth, add eight
11 inches (8") of one-quarter inch (1/4") crushed stone (not limerock), then one
12 and one-half inches (1 1/2") of sand to level the three and one eighth inch (3
13 1/8") thick turf block. All compaction shall be done by hand, exempting
14 the normal Town requirements of 95% to 98% density. Compaction shall
15 be done in layers after each sub-base is installed and again after the turf
16 block is laid. The cells of the turf block shall then be filled with top soil
17 and seeded. No more than 30 percent of the root zone shall be disturbed,
18 no closer than 30 percent of the distance to the trunk.

19 2. Injuries by chemical poisoning. To avoid injuries due to chemical poisoning:

20 a. No fuel, paint, solvent, oil, thinner, asphalt, cement, or any other
21 construction chemical or other material or tools of any kind shall be stored,
22 or allowed in any manner to enter, within a required protective barrier or
23 perimeter line.

24 b. No equipment shall be cleaned within a required protective barrier or
25 perimeter line.

26 3. Injuries by grade changes.

27 a. When raising the grade, the following measures shall be taken:

28 i. Within the tree protection zone, existing sod/vegetation and leaf litter
29 shall be removed and the soil loosened without injuring the roots.

30 ii. The area within the tree protection zone shall be properly fertilized to
31 improve the vigor and growth of the roots.

32 iii. Porous, four-inch agriculture drain tiles shall be laid over the soil to
33 drain liquids away from the trunk. A drop of at least one eighth (1/8)
34 inch per foot shall be provided. The drain field shall be designed to
35 provide adequate drainage of the existing configuration of the trees.

36 iv. The number of drains shall depend upon soil material; lighter sandy
37 soils and porous gravelly material require fewer drains than heavy non-
38 porous soils.

39 v. Aeration shall be provided by installing vertical tiles along the system.
40 The vertical tiles shall be filed with gravel and capped with a heavy-
41 duty mesh to keep out trash and debris.

42 vi. Dry wells shall be large enough to allow for maximum growth of the
43 tree trunk. Tree wells shall be five (5) times the mature diameter of the
44 tree trunk.

- 1 vii. To prevent washing of material into the well, the dry well casing walls
2 shall be high enough to bring the coping just above the level of the
3 proposed fill.
- 4 viii. Dry well walls shall be constructed of materials that permit passage
5 of air and water. Concrete blocks backed with galvanized screening
6 may be used for the sides of the well.
- 7 ix. Grating or barriers shall be used around openings that are large enough
8 to present a hazard to pedestrians.
- 9 x. Open wells shall be cleaned regularly to remove sediment, leaves, and
10 debris that might interfere with the free passage of air.
- 11 xi. Large stones shall be placed over the drainage tiles and a layer of smaller
12 stones shall be placed over the remainder of the ground within the drip
13 line.
- 14 xii. A layer of gravel shall be placed over the stones.
- 15 xiii. The fill shall be completed with a layer of porous soil.
- 16 b. When lowering the grade, the following measures shall be taken:
- 17 i. Roots shall be cut cleanly and re-trimmed after excavation.
- 18 ii. The canopy shall be pruned to aid in maintaining tree vigor.
- 19 iii. When lowering the grade of the soil surrounding a protective tree, the
20 maximum number of tree roots within the tree protection zone shall be
21 preserved by using any of the following methods:
- 22 1. Terracing. The area within the tree protection zone is left at the
23 original grade by terracing.
- 24 2. Retaining wall. The area within the tree protection zone is left at the
25 original grade by constructing a dry retaining wall. The retaining
26 wall shall be porous to allow for aeration.
- 27 3. Terracing and retaining wall. The area within the tree protection
28 zone is left at the original grade by the combined use of terracing
29 and dry retaining wall.
- 30 c. Minor Changes in Grade. When the change in the grade is minor, as
31 determined by the Town engineer, lesser protective measures than those
32 described above may be taken. The Town engineer shall approve the use of
33 these methods where their use will not endanger the health of the protected
34 tree.
- 35 4. Injuries by excavation
- 36 a. Water, sewer, and other utility lines should be routed around the tree
37 protection zones of protected trees.
- 38 b. If a line cannot reasonably be routed around the tree protection zone, the
39 line shall be tunneled beneath the area within the zone. The tunnel shall be
40 offset to one side of the trunk to prevent damage to the main top roots.
- 41 5. Injuries by paving. To avoid injury by paving within the drip line, porous paving
42 may be placed within the tree protection zone of a protected tree, so long as no
43 damage is inflicted to the tree by grade change, compaction of the soil, or any
44 other cause.

1 **7.11.02 Protection of Historic Trees**

2 Historic trees are any trees, except for pines and palms, which are 36-inches or more at
3 DBH or any tree determined by the Town Council to have a unique and intrinsic value
4 because of its size, age, historic association, location, unique beauty or ecological
5 value. All historic trees are to be protected unless one of the following conditions is
6 met.

- 7
- 8 A. The tree is not suitable for preservation as determined by a certified arborist.
- 9 B. The tree is a threat to a principle structure or otherwise constitutes a hazard
10 requiring removal as determined by a qualified arborist or a professional engineer.
- 11 C. The placement of the tree prohibits the economic use of the property for permissible
12 development. Removal of historic trees based on this criterion requires mitigation
13 as set forth in Section 7.12.03.
- 14

15 **7.11.03 Protection of Specimen Trees**

16 A specimen tree shall be any tree, except for palms and pines, on the Approved Tree
17 List (Refer to Section 7.10.00) that is 20-inches DBH or larger. Fifty percent of all
18 specimen trees shall be preserved on a parcel. If the preservation of at least fifty percent
19 of the specimen trees prohibits the economic use of the property for permissible
20 development, all specimen trees removed from the property shall be mitigated as set
21 forth in Section 7.12.03.

22

23 **7.11.04 Design Standards for Promoting Tree Protection**

24 In the design and development of any site, all trees shall be preserved to the maximum
25 extent possible, except those identified by a certified arborist as not suited for
26 protection due to the existing condition of the tree or other factors that will limit the
27 tree’s ability to grow and maintain its health. In attempting to save as many trees as
28 possible, the following should be taken into account:

- 29 A. Building Footprint. Every attempt shall be made to avoid placing a building in a
30 location which requires the removal of a healthy, mature tree or a cluster of healthy,
31 mature trees.
- 32 B. Stormwater Management / Drainage Facilities. Every attempt shall be made to
33 avoid placing retention ponds or other stormwater management/drainage facilities
34 in locations which will cause the removal of healthy, mature trees on a lot or parcel.
35 Where it is necessary to place such a facility in close proximity to a tree, the Town
36 may require improvements including retaining walls, to ensure that the tree is not
37 endangered.
- 38 C. General Site Design. Site design considerations, including the meandering of roads
39 and the reconfiguration of lot lines shall be used to maximize the preservation of
40 healthy and mature trees.
- 41 D. Parking and Driveways. No individual tree greater than 12” DBH or cluster of trees
42 with an average DBH of 8” or more shall be removed unless it is physically
43 impossible to provide alternative locations for these facilities. Measures included
44 in this section shall be used to save the greatest number of trees possible in parking

1 areas. Use of tree wells, root pruning, concrete pavers, turf block, root drainage
2 systems, subsurface soil stabilization systems, special fill procedures (excluding the
3 use of limerock) and restrictions may be required, as appropriate, and subject to the
4 approval of the Town. Developers may request waivers from required parking
5 spaces if it will result in saving existing trees.

6 E. Demucking. Where demucking is required for a parking area or driveway(s) and
7 such activity will cause the removal or destruction of a tree or trees as described
8 above, certification must be presented by a licensed civil engineer or landscape
9 architect certifying that the paved area cannot be constructed in a sound manner
10 without the removal of the muck and the destruction of the existing trees. The
11 certification shall include soil boring information supporting the findings. Where
12 demucking is necessary, every attempt shall be made to demuck around the
13 perimeter of trees and soil stabilization, drainage, fill and other methods shall be
14 employed to preserve trees in this category.

15 F. Masonry Walls. If wall construction is within ten feet (10') of an existing
16 individual tree greater than 12" DBH or a cluster of trees with an average DBH of
17 8" or more, the wall or walls need to be constructed with a lintel system. Precast
18 wall systems are encouraged due to a non-continuous footing and lesser impacts on
19 tree root systems.

20 7.12.00 TREE REMOVAL PROCESS

21 7.12.01 Permit Required

22 A. Any person who proposes to cut down, move, remove, or destroy any tree,
23 including those on single family lots, shall first obtain a tree removal permit from
24 the Town. Requests for tree removal permits shall be made to the Public Works
25 Director. Trees that are located on vacant, undeveloped land shall not be removed
26 except as permitted through the development of the site. ~~Trees that are on the~~
27 ~~Town's prohibited tree list may be removed without a permit. Citrus trees and trees~~
28 ~~on the Town's prohibited tree list (Section 7.10.01) may be removed without permit~~
29 ~~or fee following inspection. Mitigation may be required as a condition of a tree~~
30 ~~removal permit.~~ Any application for a tree removal permit shall include the
31 following:

- 32 1. Property owner's name and day time telephone number.
- 33 2. Street address and directions to the site.
- 34 3. Type and size of tree proposed to be removed.
- 35 4. Purpose for the tree removal.
- 36 5. Most recently available boundary survey.
- 37 6. General location of the tree on the site.
- 38 7. ~~How many trees remain~~ The number of trees remaining on the lot or parcel.

39 B. When determining whether to permit the tree removal, the following issues will be
40 evaluated:

- 41 1. Whether the tree has a potentially hazardous branching structure such as a
42 hollow trunk, low fork in the trunk, or other.
- 43 2. Whether the tree is injured or diseased beyond repair.
- 44 3. Whether there are no viable alternatives to locating structures or driveways on
45 the site.

- 1 4. Whether the tree is impacting the foundation of a house or other building or
2 structure.
3 5. Whether the tree poses a threat to traffic visibility.
4 6. Whether the tree is negatively impacting a more desirable tree.
5 7. Any other issue deemed important by the Town.
6 8. Trees that are deemed hazardous or otherwise unsafe shall be allowed to be
7 removed without mitigation. In circumstances where the condition supporting
8 the removal of a tree is not obvious or easily documented by the Town
9 inspector, a letter from a certified arborist may be required to permit removal.
10 In emergency situations, a hazardous tree may be removed as long as proper
11 documentation in the form of photographs and/or a written opinion from Town
12 staff, accompanies the permit application.
13 C. Any trees removed in violation of this chapter shall be deemed to be violations of
14 this Code and subject to all penalty provisions afforded the Town.

15 **7.12.02 Tree Farms**

16 Trees located on property that is operated as a tree farm shall be exempt from tree
17 replacement requirements upon proof of such operation and continued use of the land
18 as a tree farm. If the landowner is requesting to remove the trees for development of
19 the land, then the property is subject to tree mitigation measures. The Town will
20 consider the property’s former use as a tree farm when approving the mitigation plan
21 so as not to place an unfair burden on the property owner.
22

23 **7.12.03 Tree Removal for Agricultural Use**

24 Trees may be removed to permit bona fide agricultural use of land zoned AG or
25 otherwise permitted agricultural use under an approved planned unit development
26 agreement. The property owner shall submit a survey or plot plan to the Town
27 identifying the area to be cleared, the approximate number of trees and the intended
28 agricultural use. Once a parcel is cleared for agricultural use as permitted by this
29 section, the conversion of the property to a non-agricultural use within five (5) years
30 of the date of clearing shall require mitigation of the removed trees as specified in this
31 code as part of the approval of any development approval. Conversion to a non-
32 agricultural use means rezoning to a non-agricultural classification or subdivision of
33 the property other than a minor subdivision. Historic trees shall be preserved or
34 mitigated unless a qualified arborist certifies that the tree is not suitable for
35 preservation.
36

37 **7.12.04 Mitigation for Removed Trees**

38 A. It is the intent of this section that the Town shall maintain or enhance its tree cover
39 by ensuring that as trees are removed, others are planted. If there is not adequate
40 room on a lot or parcel to replace a tree or trees once that tree or trees has been
41 removed, then the property owner shall pay into the Town’s landseaping tree
42 mitigation fund which will be used to plant trees in other areas throughout the
43 Town.

- 1 B. Mitigation is required when any of the following circumstances occur:
- 2 1 For a developed single family parcel, the permitted removal of a tree will result
- 3 in the parcel having fewer trees than required in Section 7.08.01.
- 4 2 A tree other than a citrus tree, palm tree, pine tree or prohibited species listed
- 5 in Section 7.10.01 is removed without a permit.
- 6 3 Historic trees which are removed to provide for development of a parcel.
- 7 4 Where land cleared for agricultural use is converted to non-agricultural uses
- 8 within five (5) years of the date of initial tree removal.
- 9 5 When more than fifty percent (50%) of the specimen trees are removed to
- 10 permit development, all specimen trees removed must be mitigated.
- 11 C. ~~Trees shall be replaced on a one-inch (1") DBH to a one-inch (1") caliper basis.~~
- 12 ~~For example, a tree measuring nine inches (9") DBH may be replaced with one~~
- 13 ~~nine-inch (9") caliper tree, or one five-inch (5") and one four-inch (4") caliper trees.~~
- 14 ~~Minimum replacement sizes shall be as stated in section 7.09.01. based on the~~
- 15 ~~following table of requirements for residential lots.~~
- 16

<u>Mitigation Cause</u>	<u>Mitigation Requirement</u>
<u>Residential lot falls below the minimum number of trees required by Section 7.08.01 A</u>	<u>One two or three trees depending on the number of trees required to meet the minimum number.</u>
<u>Tree removed without permit.</u>	<u>Tree < 6 inches 1 replacement</u> <u>6-inch to 12-inch 2 replacements</u> <u>12-inch to 20-inch 3 replacements</u>
<u>Historic tree removed to permit development.</u>	<u>One-inch DBH of replacement tree for each inch DBH of tree(s) removed</u>
<u>Specimen tree removal above the 50% preservation requirement.</u>	<u>One-inch DBH of replacement tree for each inch DBH of tree(s) removed above the 50% preservation requirement.</u>
<u>Agricultural use conversion.</u>	<u>Twice the minimum tree planting requirement for new development.</u>

- 17
- 18 D. ~~Tree replacement and/or fees are calculated on standard permitted tree removals.~~
- 19 ~~If a tree removal is done in violation of the LDC, the replacement inches or fees~~
- 20 ~~shall be triple that of the standard. The minimum replacement tree shall be 3-inches~~
- 21 ~~DBH with a minimum height of 10-feet at the time of planting. The first priority is~~
- 22 ~~to replace the trees on site.~~
- 23 E. The following Table of Values shall be used when payments are made to the
- 24 Town's landscape fund:

25 **Table 7.12.04 (F) Table of Values**

26

Tree Size, Inches at DBH	Tree Removal Fee Per Inch DBH
4 inches to 9.9 inches	\$100.00
10 inches to 14.9 inches	\$125.00
15 inches to 19.9 inches	\$150.00

20 inches or greater	\$175.00
Any Historic Tree	\$300.00

1 **7.12.05 APPEALS**

2 Any property owner who wishes to contest a decision to deny a tree removal permit or to require
3 mitigation as specified in Section 7.12.04 may appeal the staff decision to the Town Council.
4 Appeals must be filed within sixty (60) days of the staff decision. The Town Council shall apply
5 the same standards governing tree removal permits as set forth in Section 7.12.01 B and the
6 mitigation standards as set forth in Section 7.12.04.

7 **7.13.00 TREE TRIMMING AND CUTTING**

8 A. Except for work performed by an owner or occupant on his residential property, no party
9 other than a firm licensed in tree trimming and pruning may perform such work on any
10 tree.

11 B. Trees shall be trimmed only in the following manner:

12 1. All cuts shall be clean, flush with the branch collar and executed at junctions, laterals
13 or crotches. Drop crotch trimming for overhead utility lines shall be followed.

14 2. Removal of dead wood, crossing branches, weak or insignificant branches, and suckers
15 shall be accomplished simultaneously with any reduction in crown.

16 3. Topiary pruning shall only be allowed for trees located on owner occupied property
17 developed for detached single-family or duplex usage, or for those trees that were not
18 installed to meet minimum landscaping requirements and are identified on an approved
19 landscape plan as appropriate for topiary pruning, and are located outside the rights-of-
20 way or road easements.

21 4. Hatracking, which means to flat-cut the top of a tree, severing the leader or leaders, or
22 pruning a tree by stubbing off mature wood, or reducing the total circumference or
23 canopy spread not in conformance with National Arborists Association standards, or
24 any trimming which alters the natural characteristics of the species is prohibited

25 C. All trimmed branches or fronds are to be removed from the property and properly disposed
26 of by the tree service.

27
28 **7.13.00 7.14.00 LAND CLEARING**

29 **7.13.01 7.14.01 General**

30 A land clearing permit is required other than that directly associated with a single
31 family home or an approved subdivision or site plan.

32 **7.13.02 7.14.02 Permit Application**

33 A. The applicant shall submit a sealed survey by a licensed surveyor in the State of
34 Florida to include topographic information and existing trees at a scale of not less
35 than 1 inch = 100 feet, showing:

- 36 1. The area to be cleared;

2. Size and type of existing trees, trees to be removed; and
 3. Wetland areas, water bodies and flood hazard zones.
- B. The application shall also include the following:
1. A description of the proposed method of clearing;
 2. The type of equipment to be used;
 3. The purpose for the activity; and
 4. The name of the owner of the property and the person or firm performing the work.
- C. The application shall be accompanied by the appropriate fees as required by the Town.

7.13.03 7.14.03 Permit Issuance/Enforcement

- A. The Building Official may issue a Land Clearing Permit following review and recommendation by the Town Engineer and Town Planner and approval by the Town Council. The permit shall contain any special conditions or activity restrictions. The permit shall be valid for a period of fourteen (14) days from the date of issuance.
- B. Following completion of the activity or after fourteen (14) days from the date of permit issuance, the site shall be inspected for compliance with the conditions of the permit. Any violations of the permit or other applicable Town codes or ordinances shall be referred to the Code Enforcement Officer. In addition, for any protective tree removed without a permit, a fine shall be assessed in an amount equal to one hundred dollars (\$100) times the diameter at breast height of the removed specimen. Where trees have been removed or damaged in violation of this section or permit requirements, remedial actions shall be required to restore the property. A restoration plan shall be submitted to the Building Department for approval by the Town and may require tree replacement at a ratio not to exceed four (4) to one (1) either on site or a combination of on site and payment into the Town’s landscape fund. No Certificate of Occupancy shall be issued for any development until all applicable permit and restoration conditions have been met.

7.14.00 7.15.00 GRADING AND FILLING

7.14.01 7.15.01 General

- A. No grading or filling of lands is allowed except in connection with a grade and fill permit or development order for the improvement of said lands. “Improvement of land” shall mean the development of land with buildings, structures, streets, sewers, waterlines or other facilities, the erection or installation of which requires the issuance of a permit by the Town. Grading and filling permits may be issued as follows:
1. Pursuant to the subdivision and site plan regulations in connection with Final Plan approval;
 2. Through the issuance of a building permit for improvements on the property; and

- 1 3. Upon approval of a complete application for a grade and fill permit in
2 accordance with section 7.14.02.
3 B. The burying of rubbish, logs, lumber, building materials, underbrush, trash or other
4 matter which would decompose or allow the land to thereafter settle is hereby
5 determined to be a change or modification of the grade of land for which no permit
6 shall be issued except as authorized by this Code.

7 **7.14.02 7.15.02 Permit Application**

- 8 A. Application for a Grading and Filling Permit shall include:
9 1. The name of the owner of the property;
10 2. The name of the person or firm which will perform the work;
11 3. A sealed survey by a licensed surveyor in the State of Florida to include existing
12 features of the property including elevations, buildings, structures, trees over
13 six inches (6") inches in DBH, streets, utility easements, rights of way, and
14 other improvements; the precise area(s) of development activity; wetlands and
15 water bodies;
16 4. The area to be graded or filled and cubic yard calculations; and
17 5. The specific purpose for the filling or grading activity and type of equipment to
18 be used.
19 B. Except for single-family homes, the application shall include a statement prepared
20 by a licensed civil engineer or landscape architect certifying that the grade or fill is
21 consistent with all applicable Town codes and ordinances and will not have an
22 adverse impact on environmentally sensitive areas, drainage facilities or water
23 bodies.
24 C. Any trees to be removed shall be shown on a dimensional drawing. A separate tree
25 removal permit in accordance with the provisions of section 7.12.00 of this chapter
26 will also be required.
27 D. The application shall be accompanied by the appropriate fees as required by the
28 Town.

29 **7.14.03 7.15.03 Permit Issuance**

- 30 A. Except for single-family homes or projects to be reviewed through the subdivision
31 or site plan review processes, the Town Engineer shall determine if the application
32 as submitted is in compliance with all laws of the Town, County, State and Federal
33 government, and whether the proposed clearing, grading, and/or filling will cause
34 adverse impacts to the environment. The Town Engineer shall make this
35 determination in writing; shall state the basis for the determination; and may
36 recommend other practical alternatives which would allow the permit to be issued.
37 The Town Engineer may issue approval subject to conditions to mitigate adverse
38 impacts to the environment. The applicant will be responsible for all tree removal,
39 preservation and mitigation requirements contained within this chapter and shall
40 include the appropriate plans and details as part of the application. In situations
41 where large tracts of land will be cleared, the Town shall require additional
42 plantings of trees to ensure adequate buffering and screening from adjacent public
43 rights-of-way.

- 1 B. Except where health, safety or public welfare is jeopardized, no grade and fill
2 permits shall be issued in conjunction with the grading and filling of an
3 undeveloped parcel that will require the removal or damage of trees or native
4 vegetation, unless the permit is in connection with a building permit for the
5 improvement of said lands.
6 C. For the construction of a single-family home, the Building Official shall review the
7 permit application based on the criteria listed in this section.
8 D. Approved grade and fill permits shall be issued by the Building Official.

9 **7.14.04 7.15.04 Grading and Filling Standards**

- 10 A. Any grade or fill activity shall be consistent with the following standards:
11 1. All development activity shall conform with the requirements of this Code and
12 any special conditions of the permit.
13 2. No authorization for a change, modification or lowering of grade shall be issued
14 when it is determined the same will result in a hole or depression or other
15 adverse effect, which will create a hazard.
16 3. No person shall change, modify or lower any grade to any greater degree than
17 is allowed by the authorization or permit granted for the same.
18 4. Any authorized bulldozing or fill of lands which loosens sand or topsoil and
19 permits it to blow upon the lands and premises of others is hereby declared to
20 be a nuisance. Such lands shall therefore, within thirty (30) days after
21 completion of such bulldozing work, be seeded or planted in order to minimize
22 the tendency of the sand or topsoil to blow.
23 B. No less than twenty-four (24) hours prior to beginning the operation, the permittee
24 shall notify the Town Engineer of the precise time at which the work will begin.
25 C. The Town Engineer shall be present at the time such operation begins and shall
26 monitor the activity as deemed appropriate.
27
28

Affidavit of Publication

DAILY COMMERCIAL

Leesburg, Lake County Florida
STATE OF FLORIDA, COUNTY OF LAKE

Before the undersigned authority personally appeared

Linda Rostomly

who on oath says that she is an authorized employee of the Daily Commercial, a daily newspaper published at Leesburg, in Lake County, Florida; that the attached copy of advertisement, being a notice in the matter of

ORD 2016-008

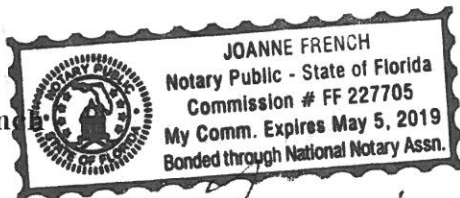
was published in said newspaper in the issues of:

DEC 21, 2016

Affiant further says that the said Daily Commercial is published at Leesburg, in said Lake County, Florida, and that the said newspaper has heretofore been continuously published in said Lake County, Florida, daily, and has been entered as second class mail matter at the post office in Leesburg, in said Lake County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this 21 day of Dec A.D., 2016.

Joanne French
Notary Public



Joanne French
(Print, Type or Stamp Name of Notary Public)

AD# 10057831

NOTICE OF PUBLIC HEARING

The Town of Howey-in-the-Hills proposes to adopt the following ordinance:

ORDINANCE NO. 2016-008

AN ORDINANCE OF THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA PERTAINING TO TREE PROTECTION; AMENDING THE LAND DEVELOPMENT CODE BY AMENDING THE DEFINITIONS OF "HISTORIC TREES" AND SPECIMEN TREES IN SECTION 1.12.00 OF CHAPTER 1; AMENDING SECTIONS 7.11.00, 7.12.00, AND 7.13.00 OF CHAPTER 7 TO PROVIDE CLARIFICATION REGARDING THE TYPES OF PROTECTED TREES, CLARIFY WHEN A TREE REMOVAL PERMIT IS REQUIRED, PROVIDE FOR AND SPECIFY WHEN MITIGATION FOR REMOVING TREES IS REQUIRED, PROVIDE FOR AN APPEAL PROCESS WHEN A TREE REMOVAL PERMIT IS DENIED OR MITIGATION IS REQUIRED, AND SPECIFY STANDARDS FOR TREE TRIMMING AND CUTTING; RENUMBERING SECTIONS

7.14.00 AND 7.15.00 OF CHAPTER 7; PROVIDING FOR CONFLICTING ORDINANCES, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

The Town Council for the Town of Howey-in-the-Hills will hold the final public hearing for Ordinance 2016-008 on January 9, 2017, at 5:30 P.M. (or as soon thereafter as the matter may be considered). All public hearings will be held in Town Hall at 101 North Palm Avenue, Howey-in-the-Hills, Florida.

At the final public hearing, the Town Council will approve, approve subject to conditions, or disapprove the ordinance to amend the Land Development Code. Interested parties may appear at any or all of the Town Council meetings or the Planning Board meeting and be heard with respect to the proposed Land Development Code amendment.

This proposed Ordinance is available at the Town Clerk's Office, 101 North Palm Avenue, Howey-in-the-Hills, Florida 34737, for inspection during normal business hours of Mon-Thurs 8:00 a.m. - 5:00 p.m., Fri 8:00 a.m. - 3:45 p.m. Persons with disabilities needing assistance to participate in this proceeding should contact the Town Clerk 48 hours before the meeting.

Persons are advised that if they decide to appeal any decision made at this meeting, they will need a record of the proceeding, and for such purposes, they may need to insure that a verbatim record of the proceeding is made which includes the testimony and evidence upon which the appeal is based, per Section 286.0105 F.S.

Brenda Brasher, MMC
Town of Howey-in-the-Hills

Ad No: 10057831
December 21, 2016