

## EXHIBIT 1

### SECTION 44: PROHIBITIONS ON PLANTING, SELLING, OR OFFERING TO SELL FRUITLESS MULBERRY AND EUROPEAN OLIVE TREES

#### 44.1 Purpose

The Clark County Board of County Commissioners finds that pollen from Fruitless Mulberry (*Morus alba*, "Fruitless") and European Olive (*Olea Europaea*) trees contribute to the high levels of airborne pollen in urban areas of Clark County during the spring.

#### 44.2 Prohibitions

After April 1, 1991, ~~[N]~~no Person shall plant, sell, offer to sell, or authorize the planting of Fruitless Mulberry or European Olive trees to any other person or company doing business within the boundaries of Clark County.

#### 44.3 Exemption

- (a) Cultivars of low pollinating Fruitless Mulberry or European Olive may be exempt from Subsection 44.2.4 if the Person who grows them for commercial distribution applies for and receives a Certificate of Exemption (COE) from the ~~[Air Pollution Control Hearing Board]~~ Control Officer.
- (b) To be approved by the ~~[Air Pollution Control Hearing Board]~~ Control Officer, the applicant must demonstrate ~~[to the Board]~~ that the low pollinating cultivar releases to the atmosphere less than 15% of the pollen released by a sexually mature traditional European Olive or Fruitless Mulberry tree and that this low pollinating capacity is retained by the sexually mature cultivar for at least three years.
- (c) Applicants applying for or renewing an existing COE must:
  - (1) Provide current DNA tree testing results as proof the trees are low or non-pollinating at the time of application/renewal. The sample shall be representative of the cultivars grown to be sold in Clark County.
  - (2) Provide one additional current DNA test result, 18 months after the exemption is granted, to ensure the cultivar is true to type.
- (d) Exempt trees in inventory at retail outlets and those being delivered to landscaping projects, must include a label approved by the Control Officer showing exempt status, date of approval of ~~[Certificate]~~ COE until sale to consumer.
- (e) The applicant shall present a distribution plan to the Control Officer to assure that only exempt trees under the applicant's control will carry the label provided for in Subsection 44.3~~[-3]~~(d). Shipping invoices must show copy of ~~[Certificate]~~ COE.

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- (f) The Control Officer may inspect nurseries, retail outlets, and plant staging areas at developments nearing final completion and at various landscaping projects to ensure the only type of European Olive or Fruitless Mulberry trees being grown, sold, or planted are those with a COE.
- (g) Such [~~certificates~~COEs shall expire in three [~~(3)~~] years. The applicant may renew a certificate for three [~~(3)~~]-year increments.