Tree Preservation Board Regular Meeting

Agenda

May 24, 2022 @ 5:00 pm

Winter Park Community Center
721 W. New England Ave.
Winter Park, FL 32789

welcome

Agendas and all backup material supporting each agenda item are accessible via the city's website at cityofwinterpark.org/bpm and include virtual meeting instructions.

assistance & appeals

Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office (407-599-3277) at least 48 hours in advance of the meeting.

"If a person decides to appeal any decision made by the Board with respect to any matter considered at this hearing, a record of the proceedings is needed to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." (F.S. 286.0105).

please note

Times are projected and subject to change.

agenda	time

1. **Call to Order**
   a. Selection of Chair & Vice Chair — 5 minutes
2. **Consent Agenda**
   a. Minutes Approval-April 26, 2022 — 2 minutes
3. **Citizen Comments (for items not on the agenda): Three minutes allowed for each speaker**
4. **Public Hearings**
   (Public participation and comment on these matters must be in-person.)
5. **Action Items**
6. **Non-Action Items**
   a. Ordinance Re-Write Discussion — 20 minutes
7. **Staff Updates**
   a. Staff Report — 20 minutes
      - Run for Trees Report
      - Banyan Tree Transplant
      - Urban Forestry Staff Changes
8. **Board Comments**
9. **Upcoming Agenda Items**
10. **Adjournment**

Tree Preservation Board

agenda item

item type Call to Order	meeting date May 24, 2022
prepared by Kesha Thompson	approved by
board approval	
strategic objective	

subject

Selection of Chair & Vice Chair

motion / recommendation

background

alternatives / other considerations

fiscal impact

Tree Preservation Board

agenda item

item type Consent Agenda	meeting date May 24, 2022
prepared by Kesha Thompson	approved by
board approval	
strategic objective	

subject
Minutes Approval-April 26, 2022

motion / recommendation

background

alternatives / other considerations

fiscal impact

ATTACHMENTS:
0426.22 Minutes.docx.pdf

Tree Preservation Board
Permit Denial Appeal Minutes

April 26, 2022 at 5:00p.m.

Winter Park Community Center
721 W New England Ave | Winter Park, Florida

Present

Kim Ashby, Melanie Love, Jill Bendick, Steve Carras, Christina Schloot

1. Call to Order

Meeting called to order by Chairwoman Kim Ashby at 5:00pm

2. Consent Agenda

Approval of Minutes- March 22, 2022
Motion made by Steve Carras to approve the consent agenda; seconded by Melanie Love. Motion carried unanimously.

3. Staff Updates

a. Community Canopy Program

The program was launched in January, and staff has met with the Communication Dept to implement the promotion campaign by utility bill inserts, and the City's quarterly newsletter. There will be two tree distributions per year. 583 trees have been distributed to date. Chairwoman Ashby inquired about a column in the32789 newsletter.

Trees will be distributed differently this year at the Run for the Trees Event, give the winner an option to select a tree or donate a tree.

Kelsi Baker addressed the board about the possibility of implementing more Urban Forestry content on the current Parks & Recreation social media platforms. Board members asked if there is a possibility to direct tree recipients to the social media for instructional videos on how to plant and maintain the tree.

New Board Members start in May.

Josh provided the board with some estimated stats on species diversity. 47% of the City's trees are Oaks. The board members suggest informing the residents of the importance of species diversity to encourage the selection different species. The board discussed an official statement from the board regarding species diversity.

b. Progress Point Plant Pallet & Partial Design

The tree/plant pallet for Progress Point was provided to the board for discussion

c. Code Revision Review

Staff distributed the recently approved code revision to review for discussion at the May meeting.

d. Arbor Day Foundation Awards

Staff informed the board of the length of time the city has held these awards and comparable to how many other municipalities share the same awards

4. Board Comments

5. Adjournment

The meeting adjourned at 6:08 pm by Chairwoman Kim Ashby

Minutes approved the board on 05/26/2022
/s/ Recording Secretary Kesha Thompson

Tree Preservation Board

agenda item

item type Non-Action Items	meeting date May 24, 2022
prepared by Kesha Thompson	approved by
board approval	
strategic objective	

subject

Ordinance Re-Write Discussion

motion / recommendation

background

alternatives / other considerations

fiscal impact

ATTACHMENTS:

Updated Tree Ordinance -08-20-2021.pdf

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING DIVISION 6 OF ARTICLE V OF CHAPTER 58 OF THE CITY'S LAND DEVELOPMENT CODE; AMENDING THE CITY'S TREE PRESERVATION AND PROTECTION ORDINANCES; HARMONIZING SAME WITH STATE LEGISLATION PERTAINING TO REMOVAL OF DANGEROUS TREES ON RESIDENTIAL PROPERTY; AND PROVIDING FOR VESTING, CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Winter Park (the "City") recognizes the importance of increasing and maintaining the landscaping and tree canopy within the City and that the City contains many species of native and non-native trees and vegetation of significant size and quality that contribute in a positive way to the environment and City aesthetics; and

WHEREAS, the City recognizes that properly maintained trees and landscaping increase property values, filter air pollutants, maintain the natural ecology, temper the effects of extreme temperatures, reduce runoff, prevent erosion of topsoil, and otherwise help create and maintain the distinct identity and visual character of the City; and

WHEREAS, the City finds that the wanton and wholesale destruction of trees or utilization of improper pruning or trimming practices, in addition to improper landscaping installation and planting, impairs scenic beauty, causes erosion, reduces property values, increases the cost of construction and maintenance of drainage systems, and may lead to other detrimental effects to the public's health, safety, and welfare; and

WHEREAS, the City has deemed it necessary to clarify existing regulations and to provide additional revisions necessary to the City's tree preservation regulations and procedures and the City's landscaping regulations and procedures to promote community welfare and safety in reasonable regulations relating to planting, pruning, removal, and replacement of trees and landscaping as well as ensuring proper care and treatment of private and City trees and landscaping comprising the City's urban tree canopy and flora; and

WHEREAS, the City desires to enact centralized processes and authority concentrated in the Urban Forestry Division and its expertise in the subjects of landscaping, tree regulation, proper pruning and management practices, and familiarity with the City's urban tree canopy and flora; and

WHEREAS, the City determines that the protection of the City's urban tree canopy and landscaping combined with recurring violations of landscaping regulations and requirements and tree regulations and requirements necessitates that the City explore alternative and cumulative lawful enforcement options to maintain the City's policies set forth herein and in dedication to maintaining an urban forest that is nationally recognized; and

WHEREAS, the City desires to clarify and streamline its appellate review processes and procedures regarding landscaping decisions and determinations, tree permit decisions, issuance of stop work orders, determinations of violations, and fines assessed relating to tree preservation and landscaping within the City; and

WHEREAS, the City finds that a permitting process and procedures are required for commercial pruning occurring within the City for the protection of and in the best interests of the residents and businesses of the City and to ensure that the goals and policies of the City's tree preservation and protection regulations are met or exceeded; and

WHEREAS, in accordance with section 163.3174, Florida Statutes, and section 58-3 of the City Code of Ordinances, the City's local planning agency, which is the designated planning and zoning board, has reviewed and made recommendations as to the amendments set forth herein;

WHEREAS, the portions of Chapter 58, Land Development Code, Article V, Division 6 that are to be amended and modified as described in each section and amended to read as shown herein.

NOW THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK:

SECTION 1. That Chapter 58 "Land Development Code", Article V, Division 6 of the Code of Ordinances is hereby amended and modified to read as follows (underlined language are additions; ~~stricken through~~ language are deletions; sections not included are not being modified):

DIVISION 6. - TREE PRESERVATION AND PROTECTION

Sec. 58-281. - Purpose and intent.

The City of Winter Park recognizes the benefits and contributions urban trees provide to our ecosystem, air and water quality, energy conservation, temperature moderation, economic development, aesthetic value, public health and livability. It is the intent of this division to establish policies, regulations and standards necessary to ensure that the city will continue to realize the benefits provided by its urban forest throughout the city, on public and private lands, and within rights-of-way.

The tree preservation and protection policies are intended to achieve the following objectives:

a) Establish and nurture a sustainable urban forest through fostering biodiversity, productivity, regenerative capacity, vitality and the interconnection of our greenway/blueway system.

b) Achieve a 45% tree canopy coverage through the preservation of existing trees and planting of diverse tree species appropriate to the various site conditions found throughout the city.

c) Maintain our recognition as a Tree City USA community through adherence to standards set forth by the National Arbor Day Foundation.

~~In recognizing that trees benefit the city by decreasing urban noise and air pollution, conserving energy and soil, minimizing flooding, providing food and cover for beneficial urban wildlife and providing value and stability to business and residential neighborhoods, and recognizing that most species of trees require at least two decades of growth to begin to exhibit such beneficial qualities, it is the intent of this division to establish policies, regulations and standards necessary to ensure that the city, which has been declared a "Tree USA," will continue to realize the benefits provided by its urban forest. The provisions of this division are enacted to:~~

~~(1) Establish and maintain the maximum sustainable amount of tree cover on public and private lands.~~

~~(2) Maintain city trees in a healthy and non-hazardous condition through good arboricultural practices.~~

~~(3) Establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest.~~

~~(4) Minimize the removal of protected trees.~~

~~(5) Require compensation for the loss of protected trees in all stages of maturity on public and private property.~~

~~(6) Preserve the community's character and quality of life well into the future.~~

Sec. 58-282. - Definitions.

For the purposes of this division, certain terms or words used herein shall be interpreted as follows:

Caliper shall mean a nursery standard measurement of a tree's trunk diameter as measured at a predetermined point of measurement. Trunk caliper for trees up to four inches shall be measured six inches above the soil line. Trees greater than four inches in caliper shall be measured 12 inches above the soil line. Caliper measurements shall be used when measuring replacement trees.

Canopy coverage shall mean the coverage of a tree, by its limbs and leaves, of the ground below. This area may include trees offsite on adjacent properties or city public right-of-way where limbs and portions of a tree's canopy overhang onto the subject property.

Canopy tree shall mean a tree that typically reaches a height of over 25 feet and has an average DBH of nine inches or larger (see section 58-288).

Clear trunk shall mean the measurement from the top of the root ball to the point where the lowest untrimmed leaf's petiole diverges from the trunk.

City shall refer to the Parks & Recreation Department and Building & Permitting Services Department ~~parks and recreation department and building and code enforcement department~~.

DBH (Diameter at breast height) shall mean a standard measurement of a tree trunk diameter as measured at a predetermined point of measurement. Trunks of existing trees shall be measured at ~~dbh,~~ 4½ feet above the soil line. For multi-trunked trees the ~~dbh~~DBH shall mean the cumulative diameter of the two largest trunks.

~~*Dead or beyond recovery* shall mean more than 50 percent of the tree is dead, is a hazardous tree as defined herein, or in a state of irrecoverable decline.~~

~~*Deteriorated tree or deterioration* shall mean a tree which is degenerated or damaged by a biological pathogen or pest to the point of the death of the tree is imminent.~~

Drip-line shall mean a vertical line from the horizontal extremity of the canopy of a tree to the ground. For trees with canopies set off-center, the drip-line will be projected based on the average diameter of the existing drip-line using the tree trunk as its point of origin.

~~*Exempt trees* are trees that do not require a permit for removal (see list in subsection 58-284(a). Exempt trees may not be used to calculate required canopy and may not be used as replacement trees.~~

Hazardous tree shall mean a whole tree or portion of a tree which presents an unacceptable risk of ~~A tree irreparably diseased or presents a danger of~~ falling that cannot be controlled or remedied through reasonable preservation and/or preventative procedures ~~and pesticides~~ such that ~~the~~ public ~~health or~~ safety requires its removal.

Improper pruning shall mean poor pruning techniques including but not limited to flush cuts, stub cuts, topping, heading, thinning, lion's-tailing, hurricane cutting, and over-lifting.

Major damage shall mean improper pruning, root damage, mechanical damage, poisoning, or any other irreparable harm inflicted upon a tree which is determined by a City arborist will result in significantly reduced lifespan or death.

Major root ~~shall mean~~ is any root that is one-fifth or larger than the size of a tree's trunk measured at ~~dbh~~DBH.

Protected tree shall mean any ~~self-supporting woody or fibrous perennial plant of a species that normal grows to a mature height of 25 feet or greater and has a tree trunk dbh of nine inches or greater and is not an exempt tree~~tree measuring at least 6 inches DBH, any palm measuring at least 8 feet clear trunk, any replacement tree or any tree of any size on city property. ~~The term "protected tree" shall also apply to any replacement tree, any non-exempt tree that is represented in a planning document for the purposes of securing an approved building or demolition permit and all trees on city property.~~

Pruning shall mean removing or reducing tree limbs to benefit the overall health and safety of a tree. Pruning shall be done according to current standards established by the ~~National Arborists Association (NAA),~~ International Society of Arboriculture (ISA), and the American National Standards Institute (ANSI) A-300 Part 1.

~~*R-1 and R-2* refer to Land Development Code, see sections 58-66 and 58-67.~~

Regenerated palms shall mean field-grown palms that have some type of containment placed around the root ball after harvesting and cropping, then are maintained until several new leaves and a substantial number of new roots have been produced.

Removal of a tree shall mean either actually removing a tree from the ground in which it grew, transplanting a tree, or effectively removing a tree through inflicting major damage~~to the trunk, topping, damaging, or removing major limbs, roots, or enough canopy volume so that the tree dies, declines beyond recovery, or becomes a hazard to public safety and must be removed~~.

Replacement tree shall mean any tree planted as a condition of approval of a tree removal permit or as may be required to meet the conditions of this division.

Residential shall refer to all "R" zoned land use codes within the Land Development Code (LDC), (see sections 58-65 through 58-69).

Right-of-way shall mean land in which the city owns the fee or has an easement devoted to or required for use as a transportation facility or street.

Root pruning shall mean the process of cutting roots prior to mechanical excavation near a tree.

Root zone shall mean the area starting from a tree's trunk to equal to a minimum distance of 2.5 a tree's drip-line.

~~*Shade tree* is a tree that typically reaches a height of over 25 feet and has an average dbh of nine inches or larger (see section 58-288).~~

Size shall mean as determined by a tree's ~~dbh~~DBH or caliper as defined in this sectionor a palm's clear trunk height as defined in this section.

Stop work order shall mean a notice stating the reason(s) for stopping work, in writing, given to the owner of the property, or to his agent, or to the person doing the work, or a notice posted at the property upon which tree work is being performed requiring that all work cease.

~~*Topping* shall mean the removal of 25 percent or more of a tree's canopy.~~

~~*Tree banking* is the planting of replacement tree(s) prior to the removal of a specific protected tree(s) (see section 58-291).~~

Tree protection area shall mean an area surrounding a tree encompassed by a tree's drip-line or projected drip-line.

Tree protection barrier shall mean a suitable structure as installed as close as possible to the perimeter of the tree protection area prior to construction, land clearing, or demolition (see section 58-292).

Trunk root flare ~~is~~ shall mean the swelling at the base of a tree trunk that increases the trunk diameter.

Understory tree ~~is~~ shall mean a tree that typically does not reach a height above 25 feet ~~and is shown on the list of understory trees~~.

Sec. 58-283. - Establishing duties and authority.

(a) ~~*Parks and Recreation Department*. The parks and recreation department~~*The Parks & Recreation Department* is delegated the following authority:

(1) To jointly work with the ~~building and code enforcement department~~ Building & Permitting Services Department in administering the provisions of this division including, but not limited to, technical and advisory support.

(2) To oversee the implementation of the Tree Preservation Ordinance through the administration and operation of the Urban Forestry Division.

(~~2~~3) To waive or modify all or some of the requirements of this division in the case of a hurricane, tornado, severe rainstorm or other emergency.

(~~3~~4) To regulate and supervise pruning ~~trimming~~ or removal of trees in the public rights-of-ways and on city property. ~~(See sections 58-297—58-299)~~

(5) To issue a stop work order at a site if unauthorized tree work is occurring.

(6) To require immediate removal of any tree that is determined to be hazardous to public property.

(b) ~~*Building and Code Enforcement Department*. The building and code enforcement department~~ *The Building & Permitting Services Department* is delegated the following authority:

(1) To require that a tree removal permit be obtained with building, demolition, site development, foundation work, and other construction activity permits, where removal of a protected tree is requested.

(2) To process and evaluate tree removal permit applications for compliance with this division.

(3) To place conditions on the issuance of construction, demolition or other land development permits when recommended as a condition of a tree removal permit ~~approval by the tree preservation board, planning and zoning board or the city commission~~.

~~(4) To require certain site plan criteria and photographic documentation be included with issuance of a building permit must include an accurate site plan and clear photograph(s) of existing tree(s) on site in accordance with subsection 58-286(b)(1)d.~~

~~(5) To issue a stop work order at a site if unauthorized tree work is occurring.~~

~~(6) To require immediate removal of any protected tree that is determined to be dead or beyond recovery or hazardous and to allow the arborist code enforcement officer to determine compensation if any.~~

(~~7~~4) To grant a building setback encroachment up to a maximum distance of ten feet into a required setback area in order to preserve a protected tree based on the

need for the relocation of the proposed building or addition to accomplish tree preservation and as approved by the building and code enforcement official. The ~~city~~City shall require a letter of approval from the affected abutting property owner(s) as a condition of approving the setback encroachment. ~~Criteria for granting a variance as listed in section 58-88 of this Code shall also be considered when reviewing the proposed setback encroachment.~~

(c) ~~*Planning and zoning board and city commission.*~~ *The Planning & Zoning Board* is delegated the following authority:

(1) To make formal recommendations to the City Commission on any proposed changes to the Land Development Code, which includes the Tree Preservation Ordinance.

(2) Any protected trees approved for removal or protection by the ~~planning and zoning board or city commission~~Planning & Zoning Board or City Commission shall not subsequently need approval from the ~~city~~ City or the ~~tree preservation board~~ Tree Preservation Board except for the administrative processing of a permit to verify approval by the respective board or commission. Prior to granting any tree removal request on appeal or otherwise, if the ~~tree preservation board~~ Tree Preservation Board rendered any decision with regard to tree removal or protection on a property that later comes before the ~~planning and zoning board or city commission~~Planning & Zoning Board or City Commission, then that decision and related information of that decision shall be transmitted in writing to the respective commission.

(d) *The Tree Preservation Board~~.~~* shall be delegated the following authority:

(1) The Tree Preservation Board is appointed by the City Commission and will consist of seven members ~~and one alternate~~, with three members appointed by the mayor and one member each appointed by the commissioners ~~one member each from the planning and zoning board, the board of adjustments, the parks and recreation board; and four citizens at large~~. All board members appointed by the ~~city commission~~City Commission must be residents of the City of Winter Park. ~~The director of parks and recreation and the building/code enforcement director shall serve as ex officio members. Members from the respective three boards shall be chosen by those boards.~~

(2) The term of each member shall be as provided in section 2-48, and the provisions in sections 2-46 through 2-49, and section 2-68 are incorporated herein by reference and shall control the operation and procedures for this board.

(3) Applicants for tree removal permits may appeal to the ~~tree preservation board~~ Tree Preservation Board any denial of an application or any of the conditions attached to the approval of a tree removal permit as outlined in this division prior to any protected tree removal. The ~~tree preservation board~~ Tree Preservation Board may affirm, reverse, or modify the decision of the Director of Parks & Recreation's or their designee's ~~building and code enforcement~~

~~department to deny~~ denial of an application for or imposition of conditions ~~of~~ upon the permit application.

(4) To make formal recommendations for revision to the Tree Preservation Ordinance and to policy guidance documents such as the Urban Forestry Management Plan and the Urban Forestry Planting Guide.

~~(4) The tree preservation board may recommend the modification of building plans and/or that the applicant petitions the board of adjustments for a variance in order to preserve protected trees, as long as the modification does not result in a violation of applicable zoning, or building codes, except as provided for in subsection 58-283(c).~~

~~(5) The tree preservation board may hear and decide appeals of tree removal applications denied and/or appeals of conditions of approval for approved tree removal permits.~~

~~(6) The tree preservation board may waive up to a maximum of five parking spaces in multi-family residential and nonresidential parking lots for the purposes of preserving existing protected trees.~~

(~~7~~5) ~~The tree preservation board may~~ To periodically conduct educational programs and/or publish educational material as to the importance of trees to the City of Winter Park and the requirements of this division.

Sec. 58-284. - Tree removal permits.

~~(a) *Exempt trees*. No permit shall be required to remove the following types of trees:~~

~~Citrus~~

~~Ear (Enterolobium species);~~

~~Camphor (Cinnamomum camphora);~~

~~Chinaberry (Melia azedarach);~~

~~Mulberry (Morus species);~~

~~Cajeput punk or Melaeuca trees (Melaeuca quinquinervia/leucadendra);~~

~~Palm;~~

~~Australian Pine (Casuarina species);~~

~~Australian Silk Oak (Grevillea robusta);~~

~~Chinese Tallow (Spaium sebiferum);~~

~~Brazilian Pepper (Schinus terebinthifolius);~~

~~Any tree with a dbh less than nine inches, as long as the tree was not planted as a replacement tree.~~

(a~~b~~) *~~Trees requiring permits.~~* Unless otherwise excepted pursuant to this code or general law, it ~~It~~ shall be unlawful to cut down, destroy, improperly prune, remove, ~~top, or~~ move or damage the roots of any protected ~~or replacement~~ tree, or to authorize the cutting down, destruction of, removal of, ~~topping~~ improper pruning of, moving of, or damage to, any protected ~~or replacement~~ tree within the city, without prior issuance by the ~~city~~City of a tree removal permit approving the act or acts, or a removal authorization by the ~~city~~City, as further described in this division~~; provided, however, that these requirements do not apply to trees specifically designated as exempt from this provision in section 58-284~~.

~~Exception: The removal of protected trees that fall or the removal of limbs of protected trees which have fallen due to acts of nature such as storms, fire or natural decay shall not require a tree removal permit.~~

~~For all properties, any protected tree, excluding those exempted in subsection 58-284(a) or (b), shall require a permit prior to removal.~~

~~Removal of any protected tree that is determined to be dead, beyond recovery or hazardous by the city shall require a tree removal permit except as provided herein. In case of an emergency a tree may be removed as authorized by the city. (See section 58-283)~~

(b) Each application for a tree removal permit shall be reviewed and a decision rendered on approval or denial (in whole or in part) on the basis of tree assessment standards set forth by the International Society of Arboriculture's Tree Risk Assessment Qualification (ISA TRAQ). Additional considerations may include but are not limited to:

(1) The health of the tree.
(2) Canopy coverage and available planting space on the lot.
(3) Active damage to structures or hardscapes which the City determines cannot be mitigated through lesser measures such as pruning or root pruning.
(4) Whether structural improvements were designed to minimize the removal of trees.
(5) The denial of the permit would create an unreasonable hardship on the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly zoned and situated properties. A minor reduction of the potential number of residential units or building size due to the tree location does not represent a severe limit of the economic enjoyment of the property.
(6) The applicant has demonstrated to the satisfaction of the city that there are no reasonable alternatives to preserve the tree(s).

(c) No approval will be granted for the alteration of any city tree that contains active nests of migratory birds, bird species listed as species of special concern, rare, threatened, or

endangered by the Florida Fish and Wildlife Commission, or which are a breeding area for a colony of birds

(d) If a person or entity is removing a tree on a residential property without a permit on the basis that such tree presents a danger to persons or property, the property owner and person or entity removing such tree must have in their respective possession at the time of removal supporting documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect finding that such tree presents a danger to persons or property ("Dangerous Finding Documentation"). The Dangerous Finding Document must have the credentials, name, address, telephone number and certification signature of the professional that issued the Dangerous Finding Documentation. A copy of the Dangerous Finding Documentation must be kept onsite where and when the tree is being removed and displayed in a place clearly visible from the public right-of-way. Upon request, the person or entity performing the removal of the tree must present the Dangerous Finding Documentation to any city officer, employee or contractor requesting to review such documentation. Within ten (10) days after the commencement of the removal of the tree, the property owner shall cause the delivery of the Dangerous Finding Documentation to the City's Building & Permitting Services Department. Failure to comply with this subsection or any part thereof constitutes a violation of this code, for which the property owner and any agent, contractor, or other entity causing such removal of such tree may be held jointly and severally liable.

~~**Sec. 58-285. - Criteria for issuance of tree removal permits.**~~

~~(a) Each application for a tree removal permit shall be reviewed and a decision rendered on approval or denial (in whole or in part) on the basis of the following criteria:~~

~~(1) The health of the tree, i.e. whether the tree is deemed dead or beyond recovery, deteriorated or hazardous.~~

~~(2) The topography of the land and the effect of the tree removal upon erosion, soil retention and the diversion or increased flow of surface waters.~~

~~(3) The number, species, size, location and canopy of existing trees in the area and the effect the removal would have upon shade, sunlight, privacy, scenic beauty, wildlife, noise, air quality, wind, health, safety, prosperity, historic values and general welfare of the area and the as a whole.~~

~~(4) Whether structural improvements have been designed and located to minimize the removal of protected trees.~~

~~(5) The denial of the permit would create an unreasonable hardship on the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly zoned and situated properties. A minor reduction of the potential number of residential units or building size due to the~~

~~tree location does not represent a severe limit of the economic enjoyment of the property.~~

~~(6) The applicant has demonstrated to the satisfaction of the city that there are no reasonable alternatives to preserve the tree(s).~~

~~(7) Such other criteria or factors as the city deems to be reasonable under the circumstances.~~

~~(b) No tree removal permit or other removal authorization as provided in this division may be issued for an historic tree without a written determination by the city that said tree is dead or beyond recovery, hazardous, or deteriorated. However, denial of a tree removal permit or removal authorization for a historic tree may still be appealed by the property owner(s) as provided in this division in subsection 58-286(d).~~

Sec. 58-<u>285</u>~~286~~. – Tree removal permit procedure.

(a) *When no construction or demolition is involved.* Applications for tree removal permits shall include:

(1) A tree removal permit fee of an amount established by the <u>City Commission</u> ~~city commission~~ <u>in the</u> Fee Schedule; and

(2) An accurate site plan drawn (hand-drawn site plan may be acceptable) to scale indicating which protected tree(s) are proposed to be removed, depicting the location, common or scientific names, and size.

(3) All protected trees petitioned for removal are to be marked ~~on site in a harmless way and~~ <u>with flagging</u> and noted accordingly on the site plan. <u>Paint is not to be used for marking.</u>

(4) Application forms may also request information regarding reasons for tree removal and other specifics as determined by the city.

(b) *When construction or demolition involving other permitting is involved.*

(1) In addition to the requirements of subsection 58-~~286~~<u>285</u>(a), applications arising out of new building construction, demolition permits or renovations requiring construction permits shall include an accurate site plan drawn to scale indicating the square footage of the site~~,~~ <u>and the</u> square footage of the proposed building area~~, the square footage of the existing tree canopy and the square footage of the tree canopy requested for removal~~. The site plan shall depict any proposed grade changes and a plan view of actual ~~protected~~ tree(s) ~~and protected tree canopies~~ on site including:

a. The property lines and footprint of existing structures; and

b. The existing and proposed grades;

c. Proposed additions to existing buildings, proposed new buildings, structures, and other impervious surfaces, such as but not limited to sidewalks, pool decks, driveways, parking areas, storm water retention areas, overhead and underground utilities, and other physical improvements.

~~d. A photographic survey and record of all protected trees on the site taken at ground level (from multiple angles) with the trees proposed to be removed, clearly marked and indicated on the photographs, depicting existing conditions.~~

(2) Incomplete or incorrect applications that require additional site visits shall require an additional fee equal to the original permit fee for each subsequent visit.

(c) *Removal voids appeals process.*

(1) Removal of protected trees requested on the tree removal permit application is regarded as the applicant's acceptance of the conditions for removal as stated on the application and voids any appeals.

(2) Except in the event of an emergency, removal of a protected tree without a permit, except as allowed under subsection 58-283(a)(~~2~~3) or as permitted by general law, shall make void any appeals as provided in this division.

(d) *Appeals.*

(1) Upon denial of an application, or conditions placed thereon for a tree removal permit, the grounds for such action shall be given to the applicant in writing. Applicants may appeal the denial decision or specific conditions placed on the approval.

(2) Following the receipt of a written request to appeal a denial of a tree removal permit or a request to appeal conditions placed on the approval of a tree removal permit, the ~~tree preservation board~~ Tree Preservation Board shall consider the appeal within 30 calendar days or as soon as possible thereafter and make a final decision. The final decision of the Tree Preservation Board shall be sent to the applicant by certified and regular mail within ten days.

(3) The applicant may appeal the decision of the ~~tree preservation board~~ Tree Preservation Board to the ~~city commission~~ City Commission if a further appeal is filed within 15 days of the date of the decision by the ~~tree preservation board~~ Tree Preservation Board. The ~~commission~~ Commission may reverse, modify or uphold the decision of the Tree Preservation Board at its next available regular scheduled meeting or at a later meeting if requested by the applicant or the ~~city~~ City.

(4) The City Commission's final decision constitutes the end of the appeals process. If the Commission upholds the denial, the tree(s) may not be removed. ~~If the~~

~~city commission upholds the decision of the tree preservation board to deny granting a tree removal permit, then the applicant may ultimately remove the subject tree(s) after a 60-day period and after notification of the intent to remove the subject tree(s) at the end of the 60-day waiting period in writing. Replacement compensation shall be provided in accordance with the replacement compensation required in subsection 58-287(2). Removal of subject tree(s) prior to the end of the 60-day period shall require the same compensation as an unpermitted tree removal. (See section 58-299).~~

(e) *Time for processing tree removal permit applications.*

(1) Notice of incomplete or inaccurate applications shall be given to the applicant within seven working days of the receipt of the application.

(2) Each application shall be approved, approved with conditions, denied, or returned to the applicant, requesting further action on the application within 14 business days of the receipt of a complete application.

(f) *Duration of tree removal permit.* Each tree removal permit shall remain in effect for one year from the date of issuance. If the action approved in the permit is not completed within the permit's effective date, a new tree removal permit must be obtained and the existing tree removal permit is void. All conditions for removal, except financial compensation which is required at the time a permit is approved in accordance with subsection 58-287(e), are to be met within 30 days of the tree removal date unless an extension is documented on an approved permit. Extensions of no longer than one year from date of removal may be considered on a case by case basis. ~~Extension requests not included on an approved permit must be submitted to the city in writing to include an explanation of the reason for the extension. Compliance with conditions for removal must be confirmed by contacting the city for an inspection.~~

~~(g) *Transfer of tree removal permit.*~~

~~(1) A tree removal permit including all conditions may be transferred from the original permit holder to any subsequent property owner to which the permit pertains subject to the conditions of this section.~~

~~(2) Requests for transfer of a tree removal permit must be submitted to the city in writing, verifying that no conditions have changed on the property that would affect the continued approval of the permit and must include all information (site plan, conditions, etc) related to the original approval of the permit.~~

~~(3) The property owner holding the tree removal permit is responsible for the transferring of the permit to the new owner and any transfer fees established by the city commission.~~

~~(4) The property owner holding the tree removal permit shall not be relieved of liability for the conditions of the tree removal permit unless the existing permit is cancelled by the city and a new permit is obtained.~~

~~(5) The new property owner is bound by all terms and conditions of the tree removal permit.~~

~~(h) *Posting of approved permit.* Approved tree removal permits are to be posted on site, legible and~~ visible from the street prior to commencement and throughout completion of work.

Sec. 58-<u>286</u>~~287~~. - Tree replacement and financial compensation requirements.

<u>(a)</u> Conditions for approval of a tree removal permit shall include tree replacement, financial compensation or a combination of tree replacement and financial compensation.

<u>(b)</u> Tree replacement may be made in the form of planting replacement tree(s) on the subject property or other property within city limits or public property with city approval in accordance with the following criteria:

<u>(1)</u> <u>Approved replacement tree species are listed in the</u> Urban Forest Plant Guide<u>.</u>

<u>(2)</u> <u>All replacement trees shall be rated FL#1 under Florida Grades & Standards for Nursery Plants.</u>

<u>(3)</u> <u>Canopy trees shall have a minimum size of 3 caliper inches.</u>

<u>(4)</u> <u>Understory trees shall have a minimum size of 2 caliper inches.</u>

<u>(5)</u> <u>Sabal palms shall be regenerated palms with a minimum size of 8 feet clear trunk.</u>

<u>(6)</u> <u>Replacement tree substitution shall be permitted under the following conditions:</u>

i. <u>Three sabal palms may be substituted for one canopy tree.</u>
ii. <u>Two understory trees may be substituted for one canopy tree.</u>
iii. <u>Sabal palms may be replaced with any approved replacement species.</u>
iv. <u>Lot must remain in compliance with minimum landscape requirements.</u>

<u>(7)</u> <u>Replacement trees shall not count toward meeting the planting requirements of</u> Division 8, Section 58-366<u>, landscape regulations for non-residential properties.</u>

<u>(8)</u> <u>Any tree removal which renders a property non-compliant with the</u> Division 8 <u>Landscape Regulations must be replanted on the same property.</u>

<u>(9)</u> <u>Hedge shrubs such as podocarpus, viburnum and clusia shall not count towards mitigation requirements.</u>

(10) Replacement trees shall be installed with their top main root one inch above the surrounding grade. Straps, ropes and wire shall be cut from the top half of the root ball.

(11) Replacement tree(s) shall be maintained and warranted to survive for a period of one year from installation. Trees not deemed to have satisfactorily survived shall be replaced with new tree(s) of the same size. Replacement tree(s) shall comply with the same maintenance and replacement warranty as the original replacement tree(s) and the warranty period will restart at the date of replanting.

(c) Minor deviations regarding the required replacement trees in this section may be determined by the city based on existing conditions on the property such as tree canopy coverage, topography, available planting space or similar criteria.

(d) *Tree replacement.* Trees permitted for removal shall be replaced at a rate determined by a mitigation matrix. The matrix assigns mitigation values based on species, size and condition. The number generated by combining these values indicates the level of mitigation required. The valuation of specific species and DBH measurements are as follows:

Species Value*					
N/A	Low	Medium <19”	Medium >19"	High <19”	High >19”
Non-native palms	Sabal palm >8’	Laurel oak	Laurel oak	Live oak	Live oak
Camphor	Crape myrtle	Red cedar	Red cedar	Bald cypress	Bald cypress
Ear tree	Black cherry	Sycamore	Sycamore	Magnolia	Magnolia
Raintree	Slash pine	Sweetgum	Sweetgum	Longleaf pine	Longleaf pine
Chinaberry		Elm	Elm	Black gum	Black gum
Cherry laurel		Red maple	Red maple		
FLEPPC List		Hickory	Hickory		
Fruit trees					

* Species not listed here may be found in the Urban Forest Plant Guide.

The Mitigation Matrix Value is calculated by adding species value plus condition as follows:

Mitigation Matrix				
Species Value	Condition			
	Dead	Poor	Fair	Good
n/a	0	0	0	0
Low	0	0	1	1
Medium <19"	0	1	1	2
Medium >19"	0	1	2	3

High <19"	0	1	3	4
High >19"	0	1	4	4

The Mitigation Matrix Value table assigns mitigation based on a number generated by the Mitigation Matrix as follows:

Mitigation Matrix Value	Assigned Mitigation – Non-residential	Assigned Mitigation – Residential
0	No mitigation required	No mitigation required
1	One replacement tree	One replacement tree
2	Two replacement trees	One replacement tree
3	Four replacement trees	Two replacement trees
4	Full DBH replacement	Two replacement trees

~~(1) *Tree replacement.* Protected trees of any dbh requested to be removed because they are deemed to be dead or beyond recovery, hazardous, or deteriorated shall be replaced with one approved replacement tree having a minimum caliper of three inches.~~

~~Protected trees requested to be removed and not deemed to be dead or beyond recovery, hazardous, or deteriorated shall be replaced with one approved replacement tree or trees as follows:~~

~~a. Replacement of protected trees shall require replacement by one or two trees with a dbh equal to or greater than three inches based on the caliper inch measurement of the tree to be removed. If the dbh of the tree to be removed is less than 19 inches, then one replacement tree is required to be replanted. If the dbh of the tree to be removed is 19 inches, then two replacement trees are required to be replanted.~~

~~b. Multiple understory trees may be approved as replacement trees with a cumulative caliper of at least six inches and shall be planted on the same property where the tree was removed.~~

~~c. No single replacement shade tree shall have a caliper of less than three inches. No single replacement understory tree, if approved, shall have a caliper of less than two inches.~~

~~d. If understory trees are approved as replacement, the caliper inches required shall be double that required when using approved shade trees.~~

~~e. Any tree removed from property not zoned for one- or two-family dwellings that removes the property's compliance with the division 8 landscape regulations must be replanted on the same property.~~

~~f. Replacement trees may count toward meeting the planting requirements of division 8, landscape regulations.~~

~~g. All replacement trees shall adhere to the current guidelines established by the Florida Grades and Standards for nursery-grown trees and must be Florida grade #1 or better. Replacement trees shall be installed with their top main root one inch above the surrounding grade.~~

~~h. Replacement tree(s) shall be maintained and warranted to survive for a period of one year from installation. Trees not deemed to have satisfactorily survived shall be replaced with new tree(s) of the same size. Replacement tree(s) shall comply with the same maintenance and replacement warranty as the original replacement tree(s) and the warranty period will restart at the date of replanting. In the event that a tree planting is approved on public property or city rights-of-way, maintenance fees as established by the city commission may be assessed as part of the permit process.~~

~~i. Minor deviations regarding the required replacement trees in this section may be determined by the city based on the condition of the tree(s) being removed and other conditions that exist on the subject property. Minor deviations shall include considering any adjustments in the required tree replacement based on existing conditions on the property such as existing tree canopy coverage of the property, topography, space available for planting or similar criteria.~~

(e~~2~~) *Financial compensation.* Caliper inches not planted as replacement trees are to be compensated by payment to the tree replacement trust fund. Compensation shall equal the rate per caliper inch set by the City Commission in the Fee Schedule, multiplied by the caliper inches of assigned mitigation.

(1)~~a.~~ Compensation is established ~~by the schedule of fees~~ in the Fee Schedule and shall be dispersed per section 58-288~~289~~ "~~tree replacement trust fund~~ Tree Replacement Trust Fund".

(2) Protected sabal palms permitted for removal and not replanted as mitigation shall have a compensation value equal to that of a 3-inch caliper replacement tree.

(3)~~b.~~ A stop work order may be issued for any development or active construction project until all applicable permit compensation conditions are satisfied.

(4)~~c.~~ The certificate of occupancy or certificate of completion shall not be issued for any development until all applicable permit conditions have been satisfied.

~~d. A tree removal permit shall not be issued until the required financial compensation for removal is paid.~~

~~e. When more than one tree is permitted to be removed, the total dbh of the protected trees to be removed shall provide the basis for compensation.~~

~~Sec. 58-288. - Recommended shade and understory trees to use as replacement trees.~~

BOTANICAL NAME	COMMON NAME
Acer rubrum	Red Maple
Betula nigra	River Birch
Liquidambar styraciflua	Sweetgum
Magnolia grandiflora	Southern Magnolia
Quercus hemisphaerica	Darlington oak
Quercus laurifolia	Laurel oak
Quercus nigra	Water oak
Quercus phellos	Willow oak
Quercus shumardii	Shumard oak
Quercus virginiana	Live oak
Taxodium distichum	Bald cypress
Ulmas alata	Winged elm

Understory trees shall not be used as replacement trees except as indicated in section 58-287. Camphor (Cinnamomum camphora) trees shall not be used as replacement trees.

Note: Others approved on a case-by-case basis.

SHADE TREES

~~UNDERSTORY TREES (For their limited uses see section 58-287)~~

~~BOTANICAL NAME~~	~~COMMON NAME~~
~~Aesculus pavia~~	~~Red buckeye~~
~~Cercis canadensis~~	~~Red bud~~
~~Chionanthus retusus~~	~~Chinese fringe tree~~
~~Chionanthus virginicus~~	~~Fringe tree~~
~~Cornus Florida'Weavers White'~~	~~Weavers White flowering dogwood~~
~~Elaeocarpus decipiens~~	~~Japanese blueberry tree~~
~~Ilex cornuta 'Burfordii' tree~~	~~Burford holly tree~~
~~Ilex cassine~~	~~Dahoon holly~~
~~Ilex x latifolia~~	~~Luster holly~~
~~Ilex vomitoria~~	~~Yaupon holly~~
~~Ilex vomitoria 'Pendula~~	~~Weeping yaupon holly~~
~~Ilex x 'Nellie R. Stevens'~~	~~Nellie R. Stevens holly~~
~~Lagerstroemia indica~~	~~Crape myrtle~~
~~Ligustrum japonicum tree~~	~~Ligustrum tree~~
~~Parkinsonia aculeate~~	~~Jerusalem thorn~~
~~Podocarpus macrophyllus~~	~~Yew podocarpus~~
~~Prunus campanulata~~	~~Taiwan cherry~~

~~Prunus umbellate~~	~~Flatwoods plum~~
~~Pyrus Kawakamii~~	~~Evergreen pear~~
~~Viburnum obovatum~~	~~Walter's viburnum~~
~~Vitex agnus-castus 'Shoal Creek'~~	~~Shoal Creek chaste tree~~

Sec. 58-288~~289~~. - Tree replacement trust fund.

(a) There is hereby created a tree replacement trust fund. All funds collected as tree replacement fees shall be administered by the Director of Parks & Recreation or their designee.

(b) Disbursements from the tree replacement trust fund shall be made only for the following purposes:

1. Purchasing trees for planting and any associated costs in accordance with the city's tree planting program; or
2. For educational purposes ~~as provided in subsection 58-283(d)(7)~~; or
3. Protection of trees and enforcement of this division.

(c) Fees for the tree replacement trust fund are established by the ~~city commission~~ City Commission in the Fee Schedule ~~schedule of fees~~.

~~(d) Fees for the tree replacement trust fund shall be reviewed annually by the city commission to reflect cost of living adjustments and/or market conditions and may be modified by approval of the city commission. In establishing fees, the city shall consider the cost of material, labor, transportation, planting, watering and mortality rate of replacement trees.~~

Sec. 58-289~~290~~. - Responsibilities for costs, fees or fines.

(a) Any agent or representative, including without limitation a contractor or subcontractor, who applies for a tree removal permit on behalf of a property owner or, who on behalf of a property owner removes a tree or otherwise violates this division of the code without appropriate permits, Dangerous Finding Documentation, or city approval, is jointly and severally liable with the property owner for resulting costs, fees, or fines. The city may pursue, in its sole discretion, one or more liable parties to recover said costs, fees, or fines.

(b) Any person or entity who is liable for unpaid costs, fees, or fines under this division is subject to the placement of a "stop work" order on any project involving said person or entity until such time as the costs, fees, or fines are paid and such is certified as having occurred by the city. No person or entity who is liable for unpaid costs, fees, or fines under this division shall be entitled to obtain or perform work under any other permits until such time as the costs, fees, or fines are paid and such is certified as having occurred by the city. No person or entity who is liable for unpaid costs, fees, or fines under this division shall be entitled to obtain a certificate of occupancy until such time as the costs, fees, or fines are paid and such is certified as having occurred by the city.

(c) For purposes of this section, the city is entitled to and shall determine the real party or parties in interest when an entity is liable for a cost, fee, or fine, and the real party or parties in interest shall be subject to the sanctions in subsection (b), by way of illustration and not limitation, an individual who does business in more than one corporate or business name shall be considered the "real party in interest" for purposes of applying subsection (b) if any of that individual's entities have unpaid costs, fines, or fees under this division and both that individual and any of the individual's entities may be subjected to the sanctions in subsection (b) until such time as there are no longer any unpaid costs, fees, or fines.

~~**Sec. 58-291. - Tree banking.**~~

~~To encourage voluntary tree replacement planting(s) there is hereby created a tree banking program. The tree preservation board may allow an applicant to plant three-inch caliper or larger approved shade tree(s) to compensate for future approved protected tree removal(s). Banked tree(s) are to be planted on the same lot from which future tree removal(s) is anticipated. Total caliper inch compensation will be calculated on the date of the tree removal. If the banked compensation is not sufficient to meet the conditions required for tree removal(s) additional compensations will be required until all conditions are satisfied. Tree(s) are to be Florida grade #1 or better and are to be measured according to the standards established in the definitions of this section. Trees must be thriving and in good condition as determined by the city, at the time of inspection which must be within 14 days of tree removal(s).~~

~~Furthermore it shall be the responsibility of the applicant to maintain and present all necessary documentation required by the tree preservation board in order to receive credit for any tree replacement as a required condition for tree removal(s).~~

Sec. 58-290. - Penalties for tree removal without required permit or for tree damage.

(a) Any protected tree(s) removed without a permit or destroyed or having received major damage in violation of this division must be replaced and/or compensated at double the rate set forth by the City Commission in the Fee Schedule.

(b) If no evidence exists on site to calculate the DBH inches of the tree(s) removed, then the tree shall be presumed to be a minimum of a 24-inch DBH tree. It is the property owner's responsibility to prove otherwise.

(c) For repeat offenders the city has the right to double restoration requirements or fines (or both) for each subsequent infraction, and in the alternative or in addition to revoke or suspend a contractor's license to do business in the city.

Sec. 58-291~~292~~. - Precautions and standards required during construction and other land development permits.

(a) Before plans are submitted for permit, the city or designee is to be consulted before any permanent structure or impervious paving is constructed within the tree protection area.

(1) A tree protection barrier plan shall be provided illustrating how protected trees located on or adjacent to the subject property will be protected from any adverse effects of proposed construction or grade changes. The plan must include the tree protection barrier that will be installed.

(2) If a major root of any protected tree affected by a grade change extends beyond its drip-line, then additional root protection per section 58-292~~293~~ may be required.

(3) Prior to demolition, grade change, and/or construction, a tree protection barrier shall be placed and maintained as necessary to prevent damaging protected trees on, or adjacent to the subject property.

(4) Tree protection barrier(s) is to be placed at or beyond the tree's drip-line whenever possible. At no time shall the tree protection barrier(s) be closer than ten feet from a trunk unless existing or proposed structures are within that range.

(b) On all construction sites and all demolition sites, tree protection shall be provided by a barrier consistent with guidelines laid out in the Urban Forest Plant Guide. ~~On single family residential (R-1) and multi-family residential (R-2) construction sites and all demolition sites, tree protection shall be provided by a barrier consisting of a four foot high continuous fence with eight foot spacing of supports sufficiently sturdy to provide constant protection of the subject tree(s) at all times. Posts may be shifted to avoid roots. An access gate, to be locked, may be required. The city shall administratively adopt additional tree protection requirements.~~

(c) Unless prior approval is granted by city, the following activities are prohibited within the drip-line of a protected tree or within ten feet of its trunk, whichever is greater:

(1) Parking or use of vehicles, equipment or machinery.

(2) Storing or dumping any material or liquids or

(3) Construction, excavation or trenching.

~~All non R-1 (single family residential) and non R-2 (multi family residential) construction and demolition sites shall require the following:~~

(1) A tree protection barrier consisting of continuous chain link fence six feet high, with six-foot metal posts with eight foot spacing. Posts may be shifted to avoid roots. An access gate, to be locked, may be required. The city may allow for some modifications to the tree protection barrier.

(2) A tree protection sign(s) spaced at a minimum of every 35 linear feet of tree protection barrier provided. Mount signs equally spaced and attach them securely to the fence facing out at a five-foot height.

(d) Tree protection sign(s) shall be a minimum of two feet wide by three feet high consisting of a durable rigid, plastic or metal material with non fading lettering, legibly printed in characters a minimum of 1½ inches high on its face. Tree protection signs and barriers are to be maintained through job completion or to the satisfaction of the city. A minimum of one sign is required per barrier. Sign text shall be included in English and Spanish and shall read:

Tree Protection Area

Prohibited within this area:

1. Parking or use of vehicles, equipment or machinery.

2. Storage or dumping of any materials or liquids.

3. Construction, excavation or trenching.

Area de Protection de Arboles

Prohibido dentro de esta area:

1. Aparcar o uso de vehiculo, equipamiento, o maquinaria.

2. Almacenar o tirar de liquidos o materiales.

3. Construction, excavation o zanjas.

(e) Unless prior approval is granted by city, the following activities are prohibited within the drip-line of a protected tree or within ten feet of its trunk, whichever is greater:

(1) Parking or use of vehicles, equipment or machinery.

(2) Storing or dumping any material or liquids or

(3) Construction, excavation or trenching.

(d ~~f~~) Permit/inspection boxes, wires, braces, nails, screws, bolts, chains, ropes, lights, antennas, flags, banners, and other similar materials, shall not be attached to a tree in a way that the city determines to be injurious to the tree.

(e ~~g~~) The precautions required in this section may be modified or waived in writing by the city.

Sec. 58-292~~293~~. - Precautions required for significant grade changes for protected trees.(a)

Grade changes involving the addition of more than three inches of fill material will require a dry well to be constructed around the trunk of the protected tree encompassing an area equal to the drip-line of the protected tree, as defined in section 58-282. The addition of fill is not allowed within the drip-line of pine trees unless authorized by the city.

(1) Dry wells constructed of crushed stone and piping shall be constructed to allow the passage of air and water to tree roots and shall be installed at the original grade.
(2) Dry wells shall be protected from washout by raising the well copings above the surrounding terrain.
(3) No part of the dry well shall be closer than three feet from the trunk of the protected tree.

(b) Grade changes involving the removal of more than three inches of soil within a protected tree's drip-line or projected drip-line are not allowed. The removal of any soil is not allowed within the drip-line of pine trees. Before any grade changes involving the removal of up to three inches of soil, the property owner or permittee shall:

(1) Leave the area within the drip-line at its original grade with terraces by use of dry retaining walls at the drip-line that are constructed to allow for drainage and aeration;
(2) Cut roots cleanly and re-trim them after excavation;
(3) Cover exposed root system and keep moist;
(4) Irrigate tree to compensate for root loss.

Sec. 58-293~~294~~. - Precautions required for excavation and paving around protected trees.

(a) Whenever possible, water, sewer, and other underground utility lines shall be routed around the drip-lines of protected trees.
(b) If compliance with subsection (a) is impossible, then tunneling or directional boring for the utility shall be routed under the protected tree's root zone to prevent damage to major roots. Mechanical trenching is prohibited.
(c) Suitable pervious pavement may be placed within the drip-line of a protected tree as long as the tree is not damaged by grade change, soil compaction, or any other cause. There is to be no disturbance to the trunk root flair.

~~**Sec. 58-295. - Requirements pertaining to utility companies.**~~

~~(a) Any electric, natural gas, telephone, cable television, other public utility firm, or corporation must apply for a tree removal permit before the removal of any protected tree of any size.~~

~~(b) Any electric, natural gas, telephone, cable television, other public utility firm, or corporation must notify the city before cutting any portion of a tree of any size including major roots.~~

~~(c) The city shall supervise the cutting as necessary and may regulate or halt the cutting when it is deemed to be detrimental to any protected tree or when the cutting exceeds what is needed for continued utility service.~~

~~**Sec. 58-296. - Trees within right-of-way.**~~

~~It shall be the duty of all owners of property encumbered or crossed by city right-of-ways, to keep trees within the city right-of-ways on the owner's property trimmed so that motor vehicle and pedestrian traffic are not obstructed at intersections, points of ingress and egress, and/or sidewalks on the public right-of-ways. Where proper trimming is not maintained, the city may, after notifying the property owner responsible for the trimming, enter upon that property and perform the work necessary to comply with code. Upon performing such work, the city will charge the property owner for the actual cost and administrative costs as determined by the schedule of fees established by the city commission. Property owners are also responsible for trimming overhanging limbs within any city right-of-ways to a minimum height of eight feet over sidewalks and for a minimum height of 13½ above any public roadway.~~

Sec. 58-<u>294</u>~~297~~. - Trees on city property.

~~It shall be unlawful to move, remove, or damage any tree of any size on city property except as part of official city business and operations.~~

~~The City of Winter Park shall have control of all street trees now or hereafter in any street, park, city right-of-ways or easement, or other public place within the city limits, and shall have the power to plant, care for, maintain, remove, and replace such trees.~~

<u>(a) The City of Winter Park shall have control of all trees now or hereafter in any park, city right-of-way, easement, or other public place within the city limits, and shall have the power to plant, care for, maintain, remove, and replace such trees.</u>

<u>(b) It shall be unlawful to move, remove, or damage any tree of any size on City property except as part of official city business and operations.</u>

<u>(c) Trees permitted for removal on City property shall be mitigated and/or compensated according to requirements for non-residential properties.</u>

(d) Trees on City property removed without a permit or destroyed or having received major damage as defined in section 58-282 shall be replaced as per applicable sections of this division.

(e) Trees within the city rights-of-way are pruned on a routine maintenance cycle for clearance over roads and sidewalks. The city does not perform pruning of portions of right-of-way trees which encroach on private property or structures unless such pruning is incidental to routine maintenance pruning.

(f) Trees planted on City rights-of-way adjacent to roads and sidewalks shall be species which are able to be maintained at a minimum clear trunk height of 8' feet at maturity.

(g) Property owners may request authorization from the city to perform pruning of right-of-way trees at their own cost provided that:

1. Pruning shall retain the natural form of that tree species.

2. All tree pruning shall be conducted according to the International Society of Arboriculture (ISA) standards, and the American National Standards Institute (ANSI) A-300 Part 1 that are hereby incorporated by this reference.

Sec. 58-295. - Trees on private property that impact public facilities.

(a) Removal or pruning of a tree on private property that poses a risk to public property is the responsibility of the property owner. If a hazardous condition is determined to exist, a written notice will be sent outlining the hazard remediation that needs to be performed. The required work must be performed within 30 days of receipt of the notice.

(b) Failure to remove or otherwise make safe any hazardous tree shall constitute a violation of this article. Such violation may result in giving notice to the owner or the agent of the owner an order to correct by removing the entire tree or hazardous limb(s) of the tree. Failure to comply with such an order may result in the City taking the necessary action to remove the tree or hazardous limb(s). All costs incurred by the City shall be assessed to the owner of the property plus an administrative fee as established under the City's Fee Schedule as determined by the City Commission. Where the full amount due the city is not paid by such owner or agent of the owner within 30 days after invoicing the owner for removing the hazardous or dead tree or limb(s) such charges shall be declared a lien on the property.

~~**Sec. 58-298. - Tree maintenance.**~~

~~It shall be the duty of all owners of property encumbered or crossed by city right-of-ways on which trees of any size are growing to provide for the proper maintenance of such trees in the city right-of-ways encumbering or crossing their property.~~

(1) Maintenance shall be done under the direction and with the approval of the city. Protected trees of any size on private or public property shall not be cut by topping.

(2) Trees of all sizes shall be pruned as needed to maintain health and safety. Pruning shall retain the natural form of that tree species. All tree pruning shall be conducted according to the latest edition of the National Arborists Association (NAA) standards, the International Society of Arboriculture (ISA) standards, and the American National Standards Institute (ANSI) A-300 that are hereby incorporated by this reference. Trees deemed to be pruned beyond recovery as defined in section 58-282 shall be replaced as per applicable sections of this division.

Sec. 58-299. - Penalties for tree removal without required permit or for tree damage.

(a) Any protected tree(s) removed without a permit or destroyed or receiving major damage in violation of this division must be replaced and/or compensated at the rate of twice the requirements of section 58-287.

(b) If no evidence exists on site to calculate the caliper inches of the tree(s) removed, then the tree shall be presumed to be a minimum of a 24-inch protected specimen tree. It is the property owner's responsibility to prove otherwise.

(c) For repeat offenders the city has the right to double restoration requirements or fines (or both) for each subsequent infraction, and in the alternative or in addition to revoke or suspend a contractor's license to do business in the city.

Sec. 58-300. - Enforcement and authority to enforce this division.

(a) The city shall provide interpretations, administration and enforcement of the provisions of this division and shall be synonymous with and referred to as "the city" or "city" for references contained herein. Appeals of decisions and determinations in the enforcement of this division shall follow the procedure as set forth in subsection 58-286(d) or as specifically addressed elsewhere.

(b) The city shall have the authority to stop work at a site if unauthorized tree work is occurring. Once a stop work order is issued, work shall not commence until the necessary permits have been issued and any applicable fine has been paid.

(c) Failure to meet permit condition requirements for replacement within 30 days of the removal of the tree(s) shall require compensation, including administrative costs plus accrued interest at the rate of 12 percent per annum filed as a lien upon the property and the provisions of section 102-135 shall apply.

~~(d) Violations for this division shall be subject to the following: Code enforcement actions or citations as per Class IV level citation as listed under Article II, Code Enforcement Citation, Section 1-23 "Classes of violations and penalties" and/or code enforcement board penalties of $250.00 and/or $500.00 per day and/or irrevocable fee of $5,000.00 and remedial action to restore the property.~~

~~(e) Failure to remove or otherwise make safe any hazardous or dead tree (protected or unprotected) shall constitute a violation of this article and may result in giving notice to the owner or the agent of the owner an order to correct the violation by either removing the entire tree or hazardous limb(s) of the tree or the city will take the necessary action to remove the tree or hazardous limb(s) of the tree and assess all costs incurred by the city to the owner of the property plus an administrative fee as established under the city's schedule of fees as determined by the city commission. Where the full amount due the city is not paid by such owner or agent of the owner within 30 days after invoicing the owner for removing the hazardous or dead tree or limb(s) such charges shall be declared a lien on the property. In addition, nothing shall prevent the city from pursuing other legal courses of action to correct the violation including referring the matter to the code enforcement board. Appeals of an order to remove a tree or hazardous limb(s) of a tree will be heard by the tree preservation board and must be filed with the city within 30 days of receipt of notice or within 30 days of posting the property with a notice to remove the tree or hazardous limb(s). An appeal must include payment of required fee and provision of documentation verifying the health of the tree and any other information which will justify withdrawing the order to remove the tree or hazardous limb(s). Appeals of the decision of the tree preservation board on this matter shall be taken to the code enforcement board.~~

SECTION 2. SEVERABILITY. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of the remainder of this Ordinance.

SECTION 3. CODIFICATION. It is the intention of the City Commission of the City of Winter Park, Florida, and it is hereby ordained that the provisions of Section 1 of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Winter Park, Florida. The City Clerk is given liberal authority to correct grammatical, typographical and scrivener's errors. Any section, paragraph number, cross references, letter and/or any heading, may be changed or modified in the existing code and amendments adopted herein as necessary to effectuate the foregoing.

SECTION 4. CONFLICTS. In the event of conflicts between this Ordinance and any other ordinance, this Ordinance shall control to the extent of the conflict.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective upon its adoption.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this _____ day of _____, 2021.

_____
Phil Anderson, Mayor

ATTEST:

_____
Rene Cranis, City Clerk

Tree Preservation Board

agenda item

item type Staff Updates	meeting date May 24, 2022
prepared by Kesha Thompson	approved by
board approval	
strategic objective	

subject
Staff Report

item list
- Run for Trees Report
- Banyan Tree Transplant
- Urban Forestry Staff Changes

motion / recommendation

background

alternatives / other considerations

fiscal impact