



Planning & Zoning Board Work Session

Agenda

June 25, 2024 @ 12:00 PM

Chapman Room

401 S. Park Avenue

welcome

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assistance & appeals

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"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.

1. Meeting Called to Order**2. Discussion Item (s)**

a. Discuss Upcoming Agenda Items:

60 minutes

- Residential lot split at 1760/1780 Bryan Ave (previously approved in February 2020)
- Rezoning of the old library property at 460 E New England Ave
- Changes to the tree preservation Ordinance (draft Ordinance attached)

3. Adjournment



Planning & Zoning Board

agenda item 2.a

item type

Discussion Item (s)

meeting date

June 25, 2024

prepared by

Allison McGillis, Director of Planning and Zoning

approved by

Allison McGillis, Director of Planning and Zoning

subject

Discuss Upcoming Agenda Items:

- Residential lot split at 1760/1780 Bryan Ave (previously approved in February 2020)
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motion | recommendation**background****alternatives | other considerations****fiscal impact****attachments**

1. Ordinance - Tree Preservation & Landscape Regs
2. Strike-thru Reference Version - Tree Preservation & Landscape Regs

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING ARTICLE V, DIVISIONS 6 AND 8 OF CHAPTER 58 OF THE LAND DEVELOPMENT CODE CONCERNING TREE PRESERVATION AND PROTECTION AND LANDSCAPE REGULATIONS; PROVIDING URBAN FORESTRY, TREE, AND LANDSCAPE REGULATIONS, REQUIREMENTS, PERMIT AND MITIGATION PROCEDURES, AND SETTING FORTH RELATED FEES AND PENALTIES; CLARIFYING AND AMENDING THE AUTHORITY OF THE URBAN FORESTRY DIVISION AND OTHER CITY DEPARTMENTS; PROVIDING SUPPLEMENTAL COMPLIANCE METHODS ENSURING OBSERVANCE OF TREE AND LANDSCAPE REGULATION, REPLACEMENT, MITIGATION, MAINTENANCE, AND BEST PRUNING AND PLANTING PRACTICES.

WHEREAS, the City Commission of the City of Winter Park (the “City”) recognizes the importance of preserving and growing the 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 and climate change, reduce stormwater runoff, mediate 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 current process to appeal the denial of a tree removal permit application does not allow for consideration of the professional judgement of the City’s International Society of Arboriculture (ISA) Certified Arborists, or the decision to uphold such judgement by the Tree Preservation Board and the City Commission

WHEREAS, the City has deemed it necessary to clarify existing regulations and to revise the City’s tree preservation regulations and procedures as well as the City’s landscaping regulations and procedures, relating to planting, pruning, removal, and replacement of trees as well as ensuring proper care and treatment of private and City trees comprising the City’s urban tree canopy and flora;

WHEREAS, the City deems these revisions as necessary to promote community health, safety, and welfare; and

WHEREAS, the City determines that recurring violations of landscaping and tree protection regulations and requirements necessitates that the City explore alternative and cumulative options to lawfully enforce the City’s policies set forth herein and to maintain the City’s nationally-recognized urban forest; and

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

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

SECTION I: RECITALS. The above recitals are true and correct, are adopted and incorporated herein, and constitute the legislative findings of the City Commission of the City of Winter Park.

SECTION II: That Article V, Division 6 of Chapter 58 of the Land Development Code of the City Winter Park regarding Tree Preservation and Protection is hereby repealed and replaced as shown below:

DIVISION 6. - TREE PRESERVATION AND PROTECTION

Sec. 58-281. - Purpose and intent.

The City of Winter Park recognizes the environmental and community resiliency 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 public parks, multi-use trails, and natural systems.
- b) Reverse canopy loss 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.

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 public rights-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 thirty feet.

Clear trunk shall mean the measurement from the top of the root ball to the lowest branch.

Dead tree shall mean a tree with no living cambium, foliage, or buds.

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 four and one-half feet above the soil line. For multi-trunked trees the DBH shall mean the cumulative diameter of the two largest stems measured at four and one-half feet above the soil line. Measurements ranging between whole numbers shall be rounded up to from half an inch and above.

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 is projected based on the average diameter of the existing drip-line using the center of the tree trunk as its point of origin.

Improper pruning shall include but not be limited to poor pruning techniques such as flush cutting, stub cutting, topping, heading, thinning, lion's-tailing, and over-lifting.

Landmark tree shall mean any live oak or bald cypress in fair to excellent condition measuring thirty inches DBH or greater.

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

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

Protected tree shall mean any tree measuring at least six inches DBH, any replacement tree or any tree of any size, on City property.

Pruning shall mean removing or reducing tree branches and/or limbs. Pruning shall be done according to current standards established by the most recent editions of the International Society of Arboriculture (ISA) Best Management Practices – Pruning, and the American National Standards Institute (ANSI) A300 Part 1 – Pruning.

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.

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 R-1 zoned land use codes within the Land Development Code (sec. 58-65).

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 two and one-half times a tree's drip-line.

Size shall mean as determined by a tree's DBH or caliper as defined in this section as defined in this section.

Stop work order shall mean a written notice requiring all work to cease, stating the reasons for stoppage. Stop work orders shall be given to the property owner, their agent, the person doing the work, or posted on the property where tree work is occurring or trees are being damaged.

Top main root shall mean the uppermost major root emerging from the base of a tree's trunk, transitioning from the trunk into the root system.

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 drip line prior to construction, land clearing, or demolition (sec. 58-292).

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

Unacceptable risk shall mean a tree which poses a risk of moderate or higher where removal is the only means of practically mitigating its risk below moderate, as determined by tree risk assessment procedures outlines in the most recent edition of the International Society of Arboriculture's (ISA) Best Management Practices – Tree Risk Assessment.

Understory tree shall mean a tree that typically does not reach a height above thirty feet.

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

(a) The Urban Forestry Division is delegated the following authority:

- (1) To jointly work with the Building & Permitting Services Department in administering the provisions of this division including, but not limited to, technical and advisory support.
- (2) To grant or deny, in whole or in part, tree removal permits.
- (3) To oversee the implementation of the Tree Preservation Ordinance through the administration and operation of the Urban Forestry Division.
- (4) 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.
- (5) To regulate and supervise pruning or removal of trees in the public rights-of-ways and on City property.
- (6) To issue a stop work order at a site if unauthorized tree work is occurring or if trees are being damaged through construction or other potentially harmful activity.
- (7) To require immediate removal of any tree that poses an unacceptable risk to public property or persons on public property.
- (8) To oversee the City's Utility Vegetation Management Program in coordination with the Electric Utility Department.

(b) 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 place conditions on the issuance of construction, demolition, or other land development permits when recommended as a condition of a tree removal permit.
- (3) 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. The City shall require a letter of approval from the affected abutting property owner(s) as a condition of approving the setback encroachment.

(c) 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 & Zoning Board or City Commission shall not subsequently need approval from the City or the 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 rendered any decision with regard to tree removal or protection on a property that later comes before the Planning & Zoning Board or City Commission, then that decision and related information of that decision shall be transmitted in writing to the respective board or commission.

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

- (1) Applicants may appeal to the 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 may affirm, reverse, or modify the decision of the Director of Parks & Recreation or their designee to deny an application or to strike conditions of the permit.
- (2) To make formal recommendations to the Planning & Zoning Board on any proposed changes to the Tree Preservation Ordinance.
- (3) To periodically conduct educational programs and/or publish educational material as to the importance of trees to the City and the requirements of this division.

Sec. 58-284. - Tree removal permits.

(a) Exempt trees. Unless on City property or near shorelines and waterways (refer to Sec. 114-6), no permit shall be required to remove the following types of trees:

any tree found on the most recent edition of the [Florida Invasive Species Council's List of Invasive Plant Species](#);

palms;

fruit trees;

any tree with a DBH less than six inches, not including replacement trees;

protected trees that have fallen due to acts of nature such as storms, fire, or natural decay.

(b) Unless preempted by Florida statutes, it shall be unlawful to authorize or undertake the removal, destruction, improper pruning, moving, or damaging of major roots of any protected tree within the city, without prior issuance by the City of a tree removal permit approving the act(s), or as otherwise authorized by the City, as further described in this division.

(c) 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 in the most recent edition of the International Society of Arboriculture Best Management Practices – Tree Risk Assessment and ANSI A300 Standards for Tree Risk Assessment, including any amendments thereto. Additional considerations may include but are not limited to:

- (1) The health of the tree(s).
- (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 limb or root pruning.
- (4) Whether structures 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 preserving the tree(s).
- (d) Unless otherwise permitted by the relevant federal and/or state authorities, no permit shall be granted for the removal of any 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.
- (e) If a person or entity is removing a tree on an occupied residential property without a permit on the basis that such tree poses an unacceptable risk 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 poses an unacceptable risk to persons or property ("Tree Risk Assessment Documentation"). The Tree Risk Assessment Document must have the credentials, name, address, telephone number and certification signature of the professional that issued the Tree Risk Assessment Documentation and must conform to tree risk assessment procedures as outlined in the International Society of Arboriculture's (ISA) Best Management Practices – Tree Risk Assessment. A copy of the Tree Risk Assessment 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 Tree Risk Assessment Documentation to any City officer, employee, or contractor requesting to review such documentation. Within ten days after the commencement of the removal of the tree, the property owner shall deliver the Tree Risk Assessment Documentation to the City's Urban Forestry Division. 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, consultant, or other entity causing or advocating for such removal of such tree may be held jointly and severally liable.

Sec. 58-285. - Tree removal permit procedure.

- (a) When no construction or demolition is involved. Applications for tree removal permits shall include:
- (1) Remittance of a tree removal permit fee of an amount established by the City Commission in the Fee Schedule; and
 - (2) An accurate site plan drawn (hand-drawn site plan may be acceptable) to scale depicting which protected trees are proposed for removal, with the locations, common and/or botanical names, and sizes.
 - (3) A photograph of the protected trees proposed for removal.
 - (4) Trees requested for removal shall be marked with flagging and noted accordingly on the site plan. Paint shall not be used for marking protected trees.
 - (5) Application forms may also require information regarding reasons for tree removal and other specifics as determined by the City.
 - (6) Trees requested for removal with trunks that originate from two or more adjacent properties shall require the written consent of all property owners.
- (b) When construction or demolition involving other permitting is involved.

- (1) In addition to the requirements of subsection 58-285(a), applications relating to or arising out of new building construction, renovation, demolition, or site work permits, or requiring construction permits shall include an accurate site plan drawn to scale indicating the square footage of the site and the square footage of the proposed building area(s). The site plan shall depict any proposed grade changes and a plan view of actual trees on site including:
 - a. The property lines and footprint of existing structures.
 - 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, patios, fences, walls, driveways, parking areas, stormwater retention areas, overhead and underground utilities, and other physical improvements.
 - (2) Incomplete or incorrect applications that require additional site visits by City staff shall require an additional fee equal to the original permit fee for each subsequent visit.
- (c) Removal voids appeal process.
 - (1) Removal of any protected tree requested on a tree removal permit application is regarded as the applicant's acceptance of the conditions for removal as stated on the application, and voids any appeal.
 - (2) Except as allowed under subsections 58-283(a)(4) and 58-284(e), removal of a protected tree without a permit shall make void any appeal as provided in this division.
- (d) Appeals.
 - (1) Upon denial, in whole or in part, of a tree removal permit application, or conditions placed on the approval of 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 shall consider the appeal within thirty 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 to the City Commission within fifteen days of the date of the decision by the Tree Preservation Board. The City Commission may reverse, modify or uphold the decision of the Tree Preservation Board at its next available regularly scheduled meeting or at a later meeting if requested by the applicant or the City.
 - (4) The City Commission's final decision constitutes the end of the appeal process. If the Commission upholds the denial, the tree(s) may not be removed.
 - (5) Trees on City property are not eligible for the appeals process.
- (e) Time for processing tree removal permit applications.
 - (1) Notice of an incomplete or inaccurate application shall be given to the applicant within seven working days of the receipt of the application.
 - (2) Each application shall either be approved, approved with conditions, denied, or returned to the applicant, requesting further action on the application within fourteen business days of the receipt of a complete application.
- (f) Duration of tree removal permit.
 - (1) Unless associated with new building construction, renovation, demolition, site work, or other construction permits, 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, then the permit is void and a new tree removal permit must be obtained before any tree removal occurs.
- (2) All conditions for removal, except financial compensation to the City which is required at the time a permit is approved in accordance with subsection 58-286(d)(1), shall 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.
 - (3) Tree removal permits associated with new building construction, renovation, demolition, site work, or other construction permits shall remain in effect through the duration of the associated building project. All conditions for removal shall be met before final building inspection.

Sec. 58-286. - Tree removal permit mitigation and financial compensation requirements.

- a) Requirements for approval of a tree removal permit shall include tree replacement and/or financial compensation.
- b) Protected trees deemed by the City to be dead by natural causes shall not require mitigation or compensation. At the City's discretion, photographic evidence may be accepted as proof that a tree is dead. A visual inspection for a tree removal permit application may be required.
- c) Tree removal mitigation may be made in the form of planting replacement trees on the subject property or other private property within city limits or public property with City approval in accordance with the following criteria:
 - 1) Mitigation for the removal of protected trees shall require replacement by approved canopy trees. Removed trees measuring from six to eighteen DBH inches shall require one replacement tree. Trees measuring nineteen DBH inches and above shall require two replacement trees.
 - 2) Landmark trees shall require replacement by six replacement trees.
 - 3) Canopy trees planted as replacement trees shall have a minimum size of three caliper inches.
 - 4) At the City's discretion, understory trees may be approved as replacement trees in appropriate locations at a rate of two understory trees per one canopy tree.
 - 5) Understory trees planted as replacement trees shall have a minimum size of two caliper inches.
 - 6) The caliper of multi-trunk trees shall be determined by the container size or root ball diameter, in accordance with the most recent edition of Florida Grades and Standards for Nursery Plants. If the root ball diameter is smaller than the container size, the root ball diameter shall be determinant.
 - 7) Any tree removal which renders a property non-compliant with the Division 8 - Landscape Regulations, must be replanted on the same property where the tree removal took place.
 - 8) Hedge shrubs, including but not limited to podocarpus, viburnum, ligustrum, and clusia, shall not count towards mitigation requirements.
 - 9) Trees improperly pruned or pruned as topiaries shall not count towards mitigation requirements.
 - 10) Replacement trees shall not count toward meeting the planting requirements of Division 8 - Section 58-336, landscape regulations for non-residential properties.
 - 11) All replacement trees shall adhere to the current guidelines established by the most recent edition of Florida Grades and Standards for Nursery Plants and shall be Florida #1 or Florida Fancy grade. Replacement trees shall be installed with their top main root one inch above the surrounding grade.
 - 12) Replacement trees shall be maintained and warrantied to survive for a period of one year from installation. Trees not deemed to have satisfactorily survived shall be replaced with new trees of the same or larger caliper size. Replacement trees shall comply with the same maintenance and

replacement warranty as the original replacement trees and the new warranty period will restart at the date of replanting.

- 13) Minor deviations regarding the required replacement trees in this section may be determined by the City based on the condition of the trees 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.

d) Financial compensation.

- 1) Caliper inches not planted as replacement trees shall be compensated by payment into the Tree Replacement Trust Fund. Each caliper inch of assigned mitigation shall constitute an equal percentage of the total DBH inches removed. Compensation shall equal the rate per DBH inch set by the City Commission in the Fee Schedule.
- 2) Landmark trees shall require triple the rate of compensation established in the Fee Schedule.
- 3) The City may disperse funds into the Tree Replacement Trust Fund (sec. 58-288).
- 4) A stop work order may be issued for any development or active construction project until all applicable permit compensation conditions are satisfied.
- 5) The certificate of occupancy or certificate of completion shall not be issued for any development until all applicable permit conditions have been satisfied.

Sec. 58-287. - Recommended shade and understory species to use as replacement trees.

Understory trees shall not be used as replacement trees except as indicated in section 58-286. Palms and trees on the most recent edition of the [Florida Invasive Species Council's List of Invasive Plant Species](#) shall not be used as replacement trees. The City may approve other species on a case-by-case basis.

CANOPY TREES

<u>BOTANICAL NAME</u>	<u>COMMON NAME</u>
<u>Acer rubrum</u>	<u>Red maple</u>
<u>Betula nigra</u>	<u>River birch (Duraheat)</u>
<u>Celtis laevigata</u>	<u>Sugarberry</u>
<u>Carya glabra</u>	<u>Pignut hickory</u>
<u>Handroanthus heptaphyllus</u>	<u>Pink trumpet tree</u>
<u>Juniperus virginiana</u>	<u>Southern red cedar</u>
<u>Liriodendron tulipifera</u>	<u>Tulip poplar</u>
<u>Magnolia grandiflora</u>	<u>Southern magnolia</u>
<u>Magnolia virginiana</u>	<u>Sweet bay magnolia</u>
<u>Nyssa sylvatica</u>	<u>Blackgum</u>
<u>Pinus elliotii</u>	<u>Slash pine</u>
<u>Pinus palustris</u>	<u>Longleaf pine</u>
<u>Platanus occidentalis</u>	<u>Sycamore</u>
<u>Quercus austrina</u>	<u>Bluff oak</u>
<u>Quercus germinata</u>	<u>Sand live oak</u>
<u>Quercus virginiana</u>	<u>Live oak</u>
<u>Taxodium distichum</u>	<u>Bald cypress</u>

UNDERSTORY TREES

<u>BOTANICAL NAME</u>	<u>COMMON NAME</u>
<u>Callistemon citrinus</u>	<u>Bottlebrush</u>
<u>Callistemon viminalis</u>	<u>Weeping bottlebrush</u>
<u>Elaeocarpus decipiens</u>	<u>Japanese blueberry</u>
<u>Eriobotrya japonica</u>	<u>Loguat</u>
<u>Handroanthus chrysotrichus</u>	<u>Golden trumpet tree</u>
<u>Ilex cassine</u>	<u>Dahoon holly</u>
<u>Ilex vomitoria</u>	<u>Yaupon holly</u>
<u>Ilex vomitoria 'Pendula'</u>	<u>Weeping yaupon holly</u>
<u>Ilex x attenuata 'Eagleston'</u>	<u>Eagleston holly</u>
<u>Lagerstroemia indica</u>	<u>Crapemyrtle</u>
<u>Magnolia grandiflora 'Little Gem'</u>	<u>Little Gem magnolia</u>
<u>Myrcianthes fragrans</u>	<u>Simpson's stopper (tree form)</u>
<u>Prunus angustifolia</u>	<u>Chickasaw plum</u>

<u>Ulmus alata</u>	<u>Winged elm</u>
<u>Ulmus parvifolia 'Allee'</u>	<u>Allee elm</u>

Sec. 58-288. - 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 and 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.
 - (2) Pruning and care of trees planted on City property.
 - (3) Educational and community outreach purposes related to trees.
 - (4) Protection of trees and enforcement of this division.

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

- (a) Any property owner, or their agent or representative, including without limitation any contractor, consultant, or other entity 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, City approval, or documentation complying with state statutes 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 all costs, fees, or fines are paid and certified as paid 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 all costs, fees, or fines are paid and certified as paid 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 all the costs, fees, or fines are paid and certified as paid by the City.
- (c) 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 there are no longer any unpaid costs, fees, or fines.

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

- (a) Any protected tree 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(s) shall be presumed to be a minimum of a twenty-four DBH inches. It is the property owner's responsibility and burden of proof 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. - Tree banking.

To encourage voluntary tree replacement plantings, there is hereby created a tree banking program. The Urban Forestry Division may allow the planting of three caliper inches or larger approved canopy trees to compensate for future permitted tree removals. Banked trees are to be planted on the same lot from which future tree removals are anticipated. Each banked tree shall count as one replacement tree irrespective of size at the time a permitted tree is removed. If the banked mitigation is not sufficient to meet the conditions required for tree removals, additional mitigation shall be required until all conditions are satisfied. Trees shall be Florida Grade #1 or better as defined in the most recent edition of Florida Grades and Standards for Nursery Plants. Banked trees shall be thriving and in good condition as determined by the City at the time of inspection, which shall be within fourteen days of tree removals.

Furthermore, it shall be the responsibility of the applicant to maintain and present all necessary documentation required by the City in order to receive credit for any tree replacement as a required condition for tree removals.

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

- (a) Before plans are submitted for permit, the City or designee shall 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. Any wall or fence on or near property lines shall be constructed so as to avoid damage to major roots of protected trees.
 - (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 58-293 may be required.
 - (3) Prior to demolition, grade change and/or construction, tree protection barricades shall be placed and maintained as necessary to prevent damage to protected trees on or adjacent to the subject property.
 - (4) Tree protection barricades shall be placed at or beyond the tree's drip-line whenever possible. At no time shall the tree protection barricades be closer than ten feet from a trunk unless existing or proposed structures are within that range.
- (b) On all construction and demolition sites, tree protection shall be provided by a barrier as shown in Figure 1.
 - (1) Barricade posts and two rails shall be made of two-by-four lumber.
 - (2) Posts shall extend into the ground a minimum of eighteen inches.
 - (3) The barricade shall be a minimum of four feet high with posts spaced no more than six feet apart.

- (4) Use the DBH of the existing tree to be preserved to determine the distance of the tree barricade from the protected tree.
- (5) Each side of the barricade shall maintain a minimum distance as specified in Table 1, measured from the perimeter of the tree trunk on all sides.
- (6) Barricade layout may be adjusted as required to accommodate sidewalks, curbs, buildings, and proposed building footprints.
- (7) Barricade shall remain in place and maintained throughout the construction process.
- (8) Only hand tools shall be used within the barricade. Trenching, digging, or grading is prohibited.

Figure 1. Tree barricade specifications.

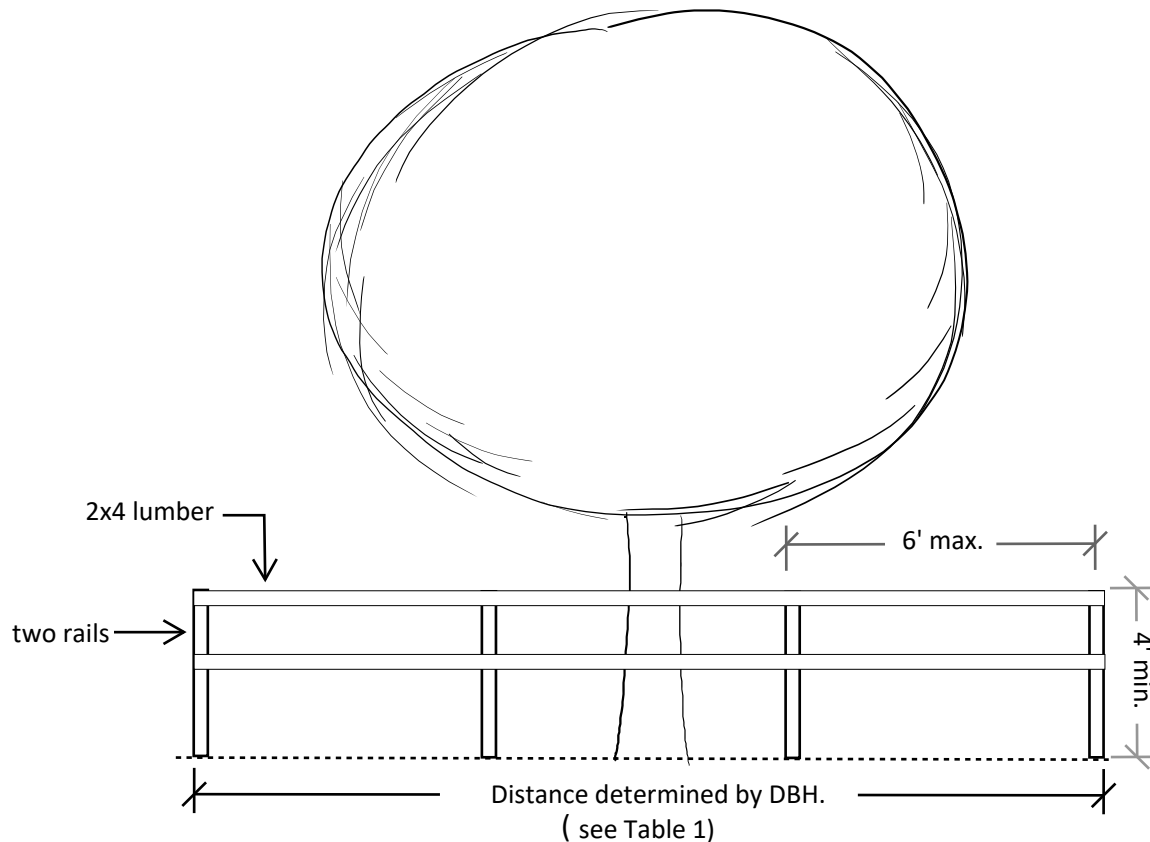


Table 1. Tree barricade distances.

<u>Tree Barricade Distances</u>	
<u>DBH Range</u>	<u>Distance</u>
<u>6"-12"</u>	<u>10'</u>
<u>13"-18"</u>	<u>12'</u>
<u>19"-29"</u>	<u>15'</u>
<u>30"+</u>	<u>20'</u>

- (c) Unless prior approval is granted by the 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.
- (3) Construction, excavation, or trenching.
- (d) 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) The precautions required in this section may be modified or waived in writing by the City.

Sec. 58-293. - Precautions required for significant grade changes for protected trees.

- (a) Grade changes involving the removal or addition of more than three inches of soil within a protected tree's drip-line or projected drip-line are prohibited. The removal of any soil is prohibited within the drip-line of pine trees. Before any grade changes involving the removal or addition 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 stacked 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.
- (b) New or expanded stormwater detention and retention areas shall maintain distance from existing trees sufficient to protect their root systems from significant damage. Where possible, retention shall not encroach on the drip-line of protected trees. Detention and retention areas shall remain a minimum of ten feet from protected trees measuring up to eighteen inches DBH and fifteen feet from trees measuring nineteen inches DBH or greater.

Sec. 58-294. - 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 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.
- (d) All hardscapes installed near existing trees must remain a minimum of ten feet from the trunk perimeter.

Sec. 58-295. – Private trees encroaching on rights-of-way.

It shall be the duty of all property owners to keep trees which encroach on rights-of-way pruned so that the views of motorists and pedestrians are not obstructed at intersections, points of ingress and egress, and/or sidewalks. Where proper pruning is not maintained, the City may, after reasonable notice to the property owner, enter upon that property and perform the necessary work. 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. The City may,

without notice, prune any portions of privately-owned trees encroaching on rights-of-way that do not require accessing private property.

Sec. 58-296. - Trees on city property.

- (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.
- (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.
- (c) Trees on City property, including exempt species, 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.
- (d) Trees planted on rights-of-way shall be pruned by the City for clearance over roads and sidewalks, line-of-sight, around traffic signs and signals, streetlights and other public infrastructure. The City does not perform clearance pruning on portions of right-of-way trees which encroach on private property.
- (e) 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 most current International Society of Arboriculture (ISA) standards, and the most current American National Standards Institute (ANSI) A-300 Part 1 that are hereby incorporated by this reference.

Sec. 58-297. - Trees on private property that impact public facilities.

- (a) Removal or pruning of a tree on private property that poses an unacceptable risk to public property or persons on public property is the responsibility of the property owner. If a City arborist determines that a tree poses an unacceptable risk, the City will send a written notice outlining the work that must be performed. The required work must be performed within thirty days of receipt of the notice.
- (b) Failure to remove or otherwise make safe any tree deemed by the City to pose an unacceptable risk to public property or persons on public property 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 limb(s). Failure to comply with such an order may result in the City taking the necessary action to remove the tree or 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 within thirty days after invoicing, such charges shall be declared a lien on the property.

Secs. 58-298—58-320. - Reserved.

SECTION III: That Article V, Division 8 of Chapter 58 of the Land Development Code of the City Winter Park regarding Tree Preservation and Protection is hereby amended to read as follows (~~struckout text~~ indicates deletions; underlined text indicates additions; and non-referenced sections shall remain unchanged):

DIVISION 8. - LANDSCAPE REGULATIONS

Sec. 58-331. - Purpose and intent.

* * *

~~(7) Contributing to the city's reforestation plan~~

(7) Upholding the intentions of the City's Tree Preservation Ordinance and Urban Forest Management Plan.

* * *

Sec. 58-333. – General criteria for all properties.

* * *

~~(4) Mulch: Maintain two to three inches of mulch to help retain soil moisture, prevent erosion and suppress weeds.~~

(4) *Mulch:* Maintain two to three inches of mulch to help retain soil moisture, prevent erosion and suppress weeds. Dyed mulch is not recommended due to [concerns over source material](#). Cypress mulch and inorganic mulch are prohibited.

* * *

Sec. 58-336. – Non-residential and multifamily properties.

* * *

~~(g) *Stormwater retention areas.* Stormwater retention areas not screened from view from any public right-of-way by a building or wall shall be screened by a hedge maintained at a four-foot height installed in a landscape area a minimum of four feet in width. In addition, a cypress tree of at least four-inch diameter shall be planted within the stormwater retention area for each 50 linear feet of the stormwater retention area.~~

(g) *Stormwater detention and retention areas.* Stormwater detention and retention areas not screened from view from any public right-of-way by a building or wall shall be screened by a hedge maintained at a four-foot height installed in a landscape area a minimum of four feet in width. In addition, a bald cypress tree of at least four caliper inches shall be planted within the stormwater area for each fifty linear feet of the stormwater area.

* * *

Sec. 58-339. – Tree protection and tree removal.

~~The protection and/or removal of existing trees at nine-inch dbh or greater are governed by the city's tree ordinance detailed in division 6, tree removal and protection. Landscape plans prepared for compliance with these regulations shall include the protected trees indicated by type and size and the proposed preservation or removal pursuant to the city's tree ordinance.~~

The protection and/or removal of existing trees at six inches DBH or greater are governed by the City's Tree Preservation Ordinance detailed in Division 6 - Tree Removal and Protection. Landscape plans prepared for compliance with these regulations shall include the locations of the protected trees along with the species and size and the calculations for the proposed preservation or removal pursuant to the City's tree ordinance.

PART II - CODE OF ORDINANCES
Chapter 58 - LAND DEVELOPMENT CODE
ARTICLE V. - ENVIRONMENTAL PROTECTION REGULATIONS
DIVISION 6. TREE PRESERVATION AND PROTECTION

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING ARTICLE V, DIVISIONS 6 AND 8 OF CHAPTER 58 OF THE LAND DEVELOPMENT CODE CONCERNING TREE PRESERVATION AND PROTECTION AND LANDSCAPE REGULATIONS; PROVIDING URBAN FORESTRY, TREE, AND LANDSCAPE REGULATIONS, REQUIREMENTS, PERMIT AND MITIGATION PROCEDURES, AND SETTING FORTH RELATED FEES AND PENALTIES; CLARIFYING AND AMENDING THE AUTHORITY OF THE URBAN FORESTRY DIVISION AND OTHER CITY DEPARTMENTS; PROVIDING SUPPLEMENTAL COMPLIANCE METHODS ENSURING OBSERVANCE OF TREE AND LANDSCAPE REGULATION, REPLACEMENT, MITIGATION, MAINTENANCE, AND BEST PRUNING AND PLANTING PRACTICES.

WHEREAS, the City Commission of the City of Winter Park (the "City") recognizes the importance of preserving and growing the 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 and climate change, reduce stormwater runoff, mediate 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 current process to appeal the denial of a tree removal permit application does not allow for consideration of the professional judgement of the City's International Society of Arboriculture (ISA) Certified Arborists, or the decision to uphold such judgement by the Tree Preservation Board and the City Commission

WHEREAS, the City has deemed it necessary to clarify existing regulations and to revise the City's tree preservation regulations and procedures as well as the City's landscaping regulations and procedures, relating to planting, pruning, removal, and replacement of trees as well as ensuring proper care and treatment of private and City trees comprising the City's urban tree canopy and flora;

WHEREAS, the City deems these revisions as necessary to promote community health, safety, and welfare; and

PART II - CODE OF ORDINANCES
Chapter 58 - LAND DEVELOPMENT CODE
ARTICLE V. - ENVIRONMENTAL PROTECTION REGULATIONS
DIVISION 6. TREE PRESERVATION AND PROTECTION

WHEREAS, the City determines that recurring violations of landscaping and tree protection regulations and requirements necessitates that the City explore alternative and cumulative options to lawfully enforce the City's policies set forth herein and to maintain the City's nationally-recognized urban forest; and

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

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

SECTION I: RECITALS. The above recitals are true and correct, are adopted and incorporated herein, and constitute the legislative findings of the City Commission of the City of Winter Park.

SECTION II: That Article V, Division 6 of Chapter 58 of the Land Development Code of the City Winter Park regarding Tree Preservation and Protection is hereby amended to read as follows (~~struckout text~~ indicates deletions; underlined text indicates additions; and non-referenced sections shall remain unchanged):

DIVISION 6. - TREE PRESERVATION AND PROTECTION^[5]

Footnotes:

--- (5) ---

PART II - CODE OF ORDINANCES
Chapter 58 - LAND DEVELOPMENT CODE
ARTICLE V. - ENVIRONMENTAL PROTECTION REGULATIONS
DIVISION 6. TREE PRESERVATION AND PROTECTION

Editor's note— Ord. No. 2724-07, § 1, adopted Oct. 8, 2007, repealed the former Div. 6, §§ 58-281—58-306, and enacted a new Div. 6 as set out herein. The former Div. 6 pertained to similar subject matter and derived from Ord. No. 2492-02, § 1, adopted Dec. 10, 2002; Ord. No.

~~**DIVISION 6. TREE
PRESERVATION AND PROTECTION¹**~~

2588-04, § 1, adopted June 14, 2004.

Sec. 58-281.— Purpose and intent.

~~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~~The City of Winter Park recognizes the environmental and community resiliency 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, ~~which has been declared a "Tree USA,"~~ will continue to realize the benefits provided by its urban forest. ~~The provisions throughout the city, on public and private lands, and within rights of this division are enacted to:~~way.

~~(1)— The tree preservation and protection policies are intended to achieve the following objectives:~~

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

~~(2)— Maintain city trees in~~nurture ~~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.~~

a) ~~(4)— Minimize through fostering biodiversity, productivity, regenerative capacity, vitality and the removal of protected trees, interconnection of our public parks, multi-use trails, and natural systems.~~

~~(5)— Require compensation for~~Reverse canopy loss through the loss~~preservation of protected~~existing ~~trees in all stages and planting of maturity on public and private property.~~

¹Editor's note(s)—Ord. No. 2724-07, § 1, adopted Oct. 8, 2007, repealed the former Div. 6, §§ 58-281—58-306, and enacted a new Div. 6 as set out herein. The former Div. 6 pertained to similar subject matter and derived from Ord. No. 2492-02, § 1, adopted Dec. 10, 2002; Ord. No. 2588-04, § 1, adopted June 14, 2004.

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- b) ~~(6) —~~ Preserved diverse tree species appropriate to the community's character and quality of life well into various site conditions found throughout the future city.
- c) Maintain our recognition as a Tree City USA community through adherence to standards set forth by the National Arbor Day Foundation.

(Ord. No. 2724-07, § 1, 10-8-07)

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~~ rights-of-way where limbs and portions of a tree's canopy overhang onto the subject property.

~~City:~~ Canopy tree shall ~~refer~~ mean a tree that typically reaches a height of over thirty feet.

Clear trunk shall mean the measurement from the top of the root ball to the ~~parks and recreation department and building and code enforcement department.~~ lowest branch.

Dead tree shall mean a tree with no living cambium, foliage, or buds.

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 four and one-half feet above the soil line. For multi-trunked trees the ~~dbh~~ DBH shall mean the cumulative diameter of the two largest ~~trunks—stems measured at four and one-half feet above the soil line.~~ Measurements ranging between whole numbers shall be rounded up to from half an inch and above.

~~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~~ is projected based on the average diameter of the existing drip-line using the center of 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:~~ 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.

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(Supp. No. 66, Update 1)

~~Major root is Improper pruning~~ shall include but not be limited to poor pruning techniques such as flush cutting, stub cutting, topping, heading, thinning, lion's-tailing, and over-lifting.

~~Landmark tree~~ shall mean any live oak or bald cypress in fair to excellent condition measuring thirty inches DBH or greater.

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

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

~~Protected tree~~ shall mean any self-supporting woody or fibrous perennial plant of a species that normally 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. 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. ~~tree measuring at least six inches DBH, any replacement tree or any tree of any size, on City property.~~

~~Pruning~~ shall mean removing or reducing tree branches and/or 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), ~~most recent editions of~~ the International Society of Arboriculture (ISA), ~~Best Management Practices – Pruning,~~ and the American National Standards Institute (ANSI) A-300.

~~R-A300 Part 1 and R-2 refer to Land Development Code, see sections 58-66 and 58-67. — Pruning.~~

~~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 damage to the trunk, topping, damaging, or removinginflicting 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 removeddamage.

~~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.

~~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.

~~Residential~~ shall refer to R-1 zoned land use codes within the Land Development Code (sec. 58-65).

~~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 2.5two and one-half times 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 dbhDBH or caliper as defined in this section as defined in this section.

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~~Stop work order shall mean a written notice requiring all work to cease, stating the reason(s) reasons for stoppingstoppage. Stop work, in writing, orders shall be given to the owner of the property, or to his owner, their agent, or to the person doing the work, or a notice posted aton the property upon whichwhere tree work is occurring or trees are being performed requiring that all work cease. damaged.~~

~~ToppingTop main root shall mean the removal of 25 percent or more of a tree's canopy.~~

~~Tree banking isuppermost major root emerging from the base of a tree's trunk, transitioning from the planting of replacement tree(s) prior to trunk into the removal of a specific protected tree(s) (see section 58-291)- root system.~~

~~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 areadrip line prior to construction, land clearing, or demolition (see section 58-292)-(sec. 58-292).~~

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

~~Unacceptable risk shall mean a tree which poses a risk of moderate or higher where removal is the only means of practically mitigating its risk below moderate, as determined by tree risk assessment procedures outlines in the most recent edition of the International Society of Arboriculture's (ISA) Best Management Practices – Tree Risk Assessment.~~

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

~~.(Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2895-12, § 1, 11-26-12)~~

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

~~(a) — Parks and recreation department. (a) The parks and recreation departmentUrban Forestry Division is delegated the following authority:~~

- ~~(1) To jointly work with the building and code enforcement departmentBuilding & Permitting Services Department in administering the provisions of this division including, but not limited to, technical and advisory support.~~
- ~~(2)(2) To grant or deny, in whole or in part, tree removal permits.~~
- ~~(3) To oversee the implementation of the Tree Preservation Ordinance through the administration and operation of the Urban Forestry Division.~~
- ~~(4) 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.~~
- ~~(35) To regulate and supervise trimmingpruning or removal of trees in the public rightrightsof-ways and on city City property. (See sections 58-297—58-299)~~

-
- (6) To issue a stop work order at a site if unauthorized tree work is occurring or if trees are being damaged through construction or other potentially harmful activity.
- (7) To require immediate removal of any tree that poses an unacceptable risk to public property or persons on public property.
- (8) To oversee the City's Utility Vegetation Management Program in coordination with the Electric Utility Department.
- (b) ~~The Building and code enforcement department.~~ The building and code enforcement department & 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)(3) 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. The 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) ~~The Planning and zoning board and city commission.~~ & 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 Planning & Zoning Board or city commission 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 board or commission.

(d) — The Tree preservation board.

(1) — ~~The tree preservation board is appointed by the city commission and will consist of seven members and one alternate, with 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 must be residents of the City of Winter Park. The director of parks and recreation and the building/code enforcement director~~Preservation Board shall serve as ex officio members. Members from the respective three boards shall be chosen by those boards; be delegated the following authority:

(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.~~

(1) ~~(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~~Director of ~~parks and recreation~~Parks & Recreation or ~~building and code enforcement department~~their designee to deny an application or to strike conditions of the permit ~~application.~~

(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.~~

~~(2)~~ (7) — ~~_____ The tree preservation board may~~To make formal recommendations to the Planning & Zoning Board on any proposed changes to the Tree Preservation Ordinance.

~~(3)~~ 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.

(Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2843-11, §§ 3.b.A., 3.c.B(1)—(3), 6-13-11; Memo of 2-22-12(Att. 3.c.B(1)—(3)))

Sec. 58-284. — Tree removal permits.

(a) ~~(a)~~ — ~~Exempt trees. No~~ Unless on City property or near shorelines and waterways (sec. 114-6), 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 Melaleuca trees (Melaleuca quinquinervia/leucadendra);
Palm;
Australian Pine (Casuarina species);
Australian Silk Oak (Grevillea robusta);
Chinese Tallow (Sapium sebiferum);
Brazilian Pepper (Schinus terebinthifolius);

Any tree found on the most recent edition of the Florida Invasive Species Council's List of Invasive Plant Species;

palms;

fruit trees;

any tree with a dbhDBH less than ninesix inches, as long as the tree was not planted as aincluding replacement tree-trees;

protected trees that have fallen due to acts of nature such as storms, fire, or natural decay.

- (b) ~~Trees requiring tree removal permits. It~~ Unless preempted by Florida statutes, it shall be unlawful to ~~cut down, destroy, improperly prune, remove, top, or move any protected or replacement tree, or to authorize or undertake the cutting downremoval, destruction of, removal of, topping of, improper pruning, moving, or damaging of, or damage to, major roots of~~ any protected ~~or replacement~~ tree within the city, without prior issuance by the cityCity of a tree removal permit approving the act(s), or ~~acts, or a removal authorizationas otherwise authorized~~ by the cityCity, as further described in this division; ~~provided, however, that these requirements do not apply to trees specifically designated as exempt from this division 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)

(Ord. ~~(C) No.~~ 2724-07, § 1, 10-8-07; Ord. ~~No.~~ 2895-12, § 1, 11-26-12)

~~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~~tree assessment standards set

forth in the most recent edition of the International Society of Arboriculture Best Management Practices – Tree Risk Assessment and ANSI A300 Standards for Tree Risk Assessment, including any amendments thereto. Additional considerations may include but are not limited to:

(1)–

(1) The health of the tree, i.e. whether(s).

(2) Canopy coverage and available planting space on the tree is deemed dead lot.

(1)(3) Active damage to structures or beyond recovery, deteriorated or hazardous, hardscapes which the City determines cannot be mitigated through lesser measures such as limb or root pruning.

(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.

(2)(4)–(4)–Whether structural improvements have been structures were designed and located to minimize the removal of protected trees.

(3)(5)–(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.

(4)(6)–(6)–The applicant has demonstrated to the satisfaction of the cityCity that there are no reasonable alternatives to preservepreserving 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).

(d)–Unless otherwise permitted by the relevant federal and/or state authorities, no permit shall be granted for the removal of any 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.

(e)–If a person or entity is removing a tree on an occupied residential property without a permit on the basis that such tree poses an unacceptable risk 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 poses an unacceptable risk to persons or property (“Tree Risk Assessment Documentation”). The Tree Risk Assessment Document must have the credentials, name, address, telephone number and certification signature of the professional that issued the Tree Risk Assessment Documentation and must conform to tree risk assessment procedures as outlined in the International Society of Arboriculture’s (ISA) Best Management Practices – Tree Risk Assessment. A copy of the Tree Risk Assessment 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 Tree Risk Assessment Documentation to any City officer, employee, or contractor requesting to review such documentation. Within ten days after the commencement of the removal of the tree, the property owner shall deliver the Tree Risk Assessment Documentation to the City's Urban Forestry Division. 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, consultant, or other entity causing or advocating for such removal of such tree may be held jointly and severally liable.

(Ord. No. 2724-07, § 1, 10-8-07)

Sec. 58-286-285. - Tree removal permit procedure.

- (a) *When no construction or demolition is involved.* Applications for tree removal permits shall include:
- (1) ~~A~~Remittance of a tree removal permit fee of an amount established by the ~~city~~ commission; and City Commission in the Fee Schedule; and
 - (2) An accurate site plan drawn (hand-drawn site plan may be acceptable) to scale ~~indicating~~depicting which protected ~~tree(s)~~trees are proposed ~~to be removed;~~ depicting for removal, with the locationlocations, common ~~and/or scientific~~botanical names, and ~~sizes~~sizes.
 - (3) ~~All A~~ photograph of the protected trees ~~petitioned~~proposed for removal ~~are to~~.
 - (4) Trees requested for removal shall be marked on-site in a harmless way with flagging and noted accordingly on the site plan. Paint shall not be used for marking protected trees.
 - (45) Application forms may also ~~request~~require information regarding reasons for tree removal and other specifics as determined by the ~~city~~City.
 - (6) Trees requested for removal with trunks that originate from two or more adjacent properties shall require the written consent of all property owners.
- (b) *When construction or demolition involving other permitting is involved.*
- (1) In addition to the requirements of subsection ~~58-286(58-285)~~(a), applications relating to or arising out of new building construction, renovation, demolition, or site work permits, ~~or renovations~~ requiring construction permits shall include an accurate site plan drawn to scale indicating the square footage of the site, ~~the 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.~~proposed building area(s). The site plan shall depict any proposed grade changes and a plan view of actual ~~protected tree(s) and protected tree canopies~~trees on site including:
 - a. The property lines and footprint of existing structures; ~~and~~.
 - b. The existing and proposed grades; ~~and~~.
 - c. Proposed additions to existing buildings, proposed new buildings, structures, and other impervious surfaces, such as but not limited to sidewalks, pool decks, patios, fences, walls, driveways, parking areas, ~~storm water~~stormwater retention areas, overhead, ~~and~~ and underground utilities, and other physical improvements.

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- 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 by City staff shall require an additional fee equal to the original permit fee for each subsequent visit.
- (c) *Removal voids ~~appeals~~ appeal process.*
- (1) Removal of any protected ~~tree~~ tree requested on ~~the~~ a 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~~ appeal.
- (2) ~~Except in the event of an emergency, as allowed under subsections 58-283(a)(4) and 58-284(e), removal of a protected tree without a permit, except as allowed under subsection 58-283(a)(2), shall make void any~~ appeals appeal as provided in this division.
- (d) *~~Appeals.~~*
- (1) Upon denial, ~~in whole or in part,~~ of ~~ana tree removal permit~~ application, or conditions placed ~~thereon for on the approval of~~ 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~~ thirty calendar days or as soon as possible thereafter and make a final decision. The final decision of the ~~tree preservation board~~ 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 if a further appeal is filed~~ City Commission within ~~15~~ fifteen days of the date of the decision by the ~~tree preservation board~~ Tree Preservation Board. The ~~commission~~ City Commission may reverse, modify or uphold the decision of the ~~tree preservation board~~ Tree Preservation Board at its next available ~~regular~~ regularly scheduled meeting or at a later meeting if requested by the applicant or the ~~city~~ City.
- (4) ~~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).~~
- (4) The City Commission's final decision constitutes the end of the appeal process. If the Commission upholds the denial, the tree(s) may not be removed.
- (5) Trees on City property are not eligible for the appeals process.
- (e) *Time for processing tree removal permit applications.*
- (1) Notice of ~~an~~ incomplete or inaccurate ~~applications~~ application shall be given to the applicant within seven working days of the receipt of the application.
- (2) Each application shall ~~either~~ be approved, approved with conditions, denied, or returned to the applicant, requesting further action on the application within ~~14 working~~ fourteen business days of the receipt of a complete application.

(f) *Duration of tree removal permit. Each*

- (1) ~~Unless associated with new building construction, renovation, demolition, site work, or other construction permits, 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, ~~then the permit is void and~~ a new tree removal permit must be obtained ~~and the existing~~ before any tree removal permit is void occurs.
- (2) All conditions for removal, except financial compensation ~~to the City~~ which is required at the time a permit is approved in accordance with subsection ~~58-287(e), are to 58-286(d)(1), shall~~ 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.~~

- (3) ~~(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. Tree removal permits associated with new building construction, renovation, demolition, site work, or other construction permits shall remain in effect through the duration of the associated building project. All conditions for removal shall be met before final building inspection.~~

~~(Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2895-12, § 1, 11-26-12)~~

Sec. Sec. 58-287-286. - Tree replacement removal permit mitigation and financial compensation requirements.

- a) ~~Conditions~~ Requirements for approval of a tree removal permit shall include tree replacement, ~~and/or~~ financial compensation ~~or a combination of tree replacement and financial.~~

a)b) Protected trees deemed by the City to be dead by natural causes shall not require mitigation or compensation. At the City's discretion, photographic evidence may be accepted as proof that a tree is dead. A visual inspection for a tree removal permit application may be required.

b)c) Tree ~~replacement~~ removal mitigation may be made in the form of planting replacement ~~tree(s)~~ trees on the subject property or other private property within city limits or public property with ~~city~~ City approval in accordance with the following criteria:

(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:

- 1) a. ~~Replacement Mitigation for the removal~~ of protected trees shall require replacement by ~~one or two~~ approved canopy trees. ~~Removed 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 measuring from six to eighteen DBH inches shall require one replacement tree. Trees measuring nineteen DBH inches and above shall require two replacement trees are required to be replanted.~~
- 2) b. ~~Multiple~~ Landmark trees shall require replacement by six replacement trees.
- 3) Canopy trees planted as replacement trees shall have a minimum size of three caliper inches.

At the City's discretion, understory trees may be approved as replacement trees with a cumulative caliper of in appropriate locations at least six inches and shall be planted on the same property where the tree was removed.

- 2)4)c. ~~No single replacement shade tree shall have a caliper of less than three inches. No single replacement a rate of two understory tree, if approved, shall have a caliper of less than two inches. trees per one canopy tree.~~
- 3)5)d. ~~If understory~~ Understory trees are approved planted as replacement, ~~the trees shall have a minimum size of two caliper inches required shall be double that required when using approved shade trees.~~
- 6) e. ~~The caliper of multi-trunk trees shall be determined by the container size or root ball diameter, in accordance with the most recent edition of Florida Grades and Standards for Nursery Plants. If the root ball diameter is smaller than the container size, the root ball diameter shall be determinant.~~
- 4)7) Any tree removed from removal which renders a property not zoned for one- or two-family dwellings that removes the property's compliance with the division non-compliant with the Division 8 landscape regulations- Landscape Regulations, must be replanted on the same property, where the tree removal took place.
- 8) f. ~~Hedge shrubs, including but not limited to podocarpus, viburnum, ligustrum, and clusia, shall not count towards mitigation requirements.~~
- 9) Trees improperly pruned or pruned as topiaries shall not count towards mitigation requirements.
- 5)10) Replacement trees may ~~shall not~~ count toward meeting the planting requirements of division ~~Division~~ 8 -Section 58-336, landscape regulations- for non-residential properties.

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~~6)11)~~ g. — All replacement trees shall adhere to the current guidelines established by the ~~Florida Grades and Standards for nursery-grown trees and must be most recent edition of~~ Florida Grades and Standards for Nursery Plants and shall be Florida #1 or Florida Fancy grade ~~#1 or better~~. Replacement trees shall be installed with their top main root one inch above the surrounding grade.

~~7)12)~~ h. — Replacement ~~tree(s)~~ trees shall be maintained and ~~warranted~~ 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)~~ trees of the same ~~or larger caliper~~ size. Replacement ~~tree(s)~~ trees shall comply with the same maintenance and replacement warranty as the original replacement ~~tree(s)~~ trees and the new 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.~~

~~8)13)~~ i. — Minor deviations regarding the required replacement trees in this section may be determined by the ~~city~~ City based on the condition of the ~~tree(s)~~ trees 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.

~~(2)~~ —

d) Financial compensation.

~~1)~~ Caliper inches not planted as replacement trees ~~are to~~ shall be compensated by payment ~~to into~~ the ~~tree replacement trust fund. Tree Replacement Trust Fund. Each caliper inch of assigned mitigation shall constitute an equal percentage of the total DBH inches removed.~~ Compensation shall equal the rate per ~~caliper~~ DBH inch set by the ~~city commission~~ City Commission in the ~~schedule of fees multiplied by the caliper inches of protected~~ Fee Schedule.

Landmark trees removed.

~~9)2)~~ a. — Compensation ~~is~~ shall require triple the rate of compensation established in the ~~schedule of fees and shall be dispersed per section 58-289 "tree replacement trust fund."~~ Fee Schedule.

~~3)~~ b. — ~~The City may disperse funds into the Tree Replacement Trust Fund (sec. 58-288).~~

~~10)4)~~ A stop work order may be issued for any development or active construction project until all applicable permit compensation conditions are satisfied.

~~11)5)~~ 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.

(Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2895-12, § 1, 11-26-12)

Sec. 58-288. ~~287.~~ - Recommended shade and understory ~~tree~~ species to use as replacement trees.

Understory trees shall not be used as replacement trees except as indicated in section 58-287-~~Camphor (Cinnamomum camphora) trees~~286. Palms and trees on the most recent edition of the Florida Invasive Species Council's List of Invasive Plant Species shall not be used as replacement trees.

~~Note: Others approved~~The City may approve other species on a case-by-case basis.

~~SHADE~~CANOPY TREES-

UNDERSTORY TREES

BOTANICAL NAME	COMMON NAME
Acer rubrum	Red Maple maple
Betula nigra	River Birch birch (Duraheat)
Liquidambar styraciflua Celtis laevigata	Sweetgum Sugarberry
Carya glabra	Pignut hickory
Handroanthus heptaphyllus	Pink trumpet tree
Juniperus virginiana	Southern red cedar
Liriodendron tulipifera	Tulip poplar
Magnolia grandiflora	Southern Magnolia magnolia
Quercus hemisphaerica Magnolia virginiana	Darlington oak Sweet bay magnolia
Quercus laurifolia Nyssa sylvatica	Laurel oak Blackgum
Quercus nigra Pinus elliottii	Water oak slash pine
Pinus palustris	Longleaf pine
Platanus occidentalis	Sycamore
Quercus phellos austrina	Willow Bluff oak
Quercus shumardii germinata	Shumard Sand live oak
Quercus virginiana	Live oak
Taxodium distichum	Bald cypress
Ulmus Ulmus alata	Winged elm
Ulmus parvifolia 'Allee'	Allee elm

BOTANICAL NAME	COMMON NAME
Callistemon citrinus	Bottlebrush
Callistemon viminalis	Weeping bottlebrush
Elaeocarpus decipiens	Japanese blueberry
Eriobotrya japonica	Loguat
Handroanthus chrysotrichus	Golden trumpet tree
Ilex cassine	Dahoon holly
Ilex vomitoria	Yaupon holly
Ilex vomitoria 'Pendula'	Weeping yaupon holly
Ilex x attenuata 'Eagleston'	Eagleston holly
Lagerstroemia indica	Crape myrtle
Magnolia grandiflora 'Little Gem'	Little Gem magnolia
Myrcianthes fragrans	Simpson's stopper (tree form)
Prunus angustifolia	Chickasaw plum

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	Grape myrtle
Ligustrum japonicum tree	Ligustrum tree
Parkinsonia aculeate	Jerusalem thorn
Podocarpus macrophyllus	Yew podocarpus
Prunus campanulata	Taiwan cherry
Prunus umbellata	Flatwoods plum
Pyrus Kawakamii	Evergreen pear
Viburnum obovatum	Walter's viburnum
Vitex agnus-castus 'Shoal Creek'	Shoal Creek chaste tree

(Ord. No. 2724-07, § 1, 10-8-07)

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

- (a) There is hereby created a ~~tree replacement trust fund~~ Tree Replacement Trust Fund. All funds collected as tree replacement fees shall be administered by the ~~director~~ Director of ~~parks~~ Parks and ~~recreation~~ Recreation or their designee.
- (b) Disbursements from the ~~tree replacement trust fund~~ 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~~ City's tree planting program; ~~or~~ _____
 - (2) _____ ~~For educational~~ Pruning and care of trees planted on City property.
 - (3) Educational and community outreach purposes as provided in subsection 58-283(d)(7) related to trees.
 - (3) _____ 4) Protection of trees and enforcement of this division.
 - (c) _____ ~~Fees for the tree replacement trust fund are established by the city commission in the 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.~~
- {

(Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2895-12, § 1, 11-26-12)

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

- (a) Any property owner, or their agent or representative, including without limitation ~~any~~ contractor, consultant, or subcontractor, other entity 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 ~~or city, City~~ approval, or documentation complying with state statutes 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 paid 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 paid 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 paid by the city.
- (c) ~~For purposes of this section, the city(c).~~ 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, fees, 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.

(Ord. No. 2724-07, § 1, 10-8-07)

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

- (a) Any protected tree 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(s) shall be presumed to be a minimum of a twenty-four DBH inches. It is the property owner's responsibility and burden of proof 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.~~

~~(Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2895-12, § 1, 11-26-12)~~

Sec. 58-291. -- Tree banking.

To encourage voluntary tree replacement ~~planting(s)~~plantings, there is hereby created a tree banking program. The ~~tree preservation board~~Urban Forestry Division may allow ~~an applicant to plant the planting of~~ three-inch caliper ~~inches~~ or larger approved ~~shade tree(s) canopy trees~~ to compensate for future ~~approved protected~~permitted tree ~~removal(s)~~removals. Banked ~~tree(s)~~trees are to be planted on the same lot from which future tree ~~removal(s)~~ are anticipated. ~~Total caliper inch compensation will be calculated on the date of the tree removal. If the Each banked compensation tree shall count as one replacement tree irrespective of size at the time a permitted tree is removed. If the banked mitigation is not sufficient to meet the conditions required for tree removal(s) removals, additional compensations will mitigation shall be required until all conditions are satisfied. Tree(s) are to Trees shall be Florida grade~~Grade #1 or better and are to be measured according to the standards established as defined in the definitions most recent edition of this section. Trees must Florida Grades and Standards for Nursery Plants. Banked trees shall be thriving and in good condition as determined by the cityCity at the time of inspection, which ~~must~~shall be within ~~14~~fourteen days of tree ~~removal(s)~~removals.

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

~~(Ord. No. 2724-07, § 1, 10-8-07)~~

~~(Ord. No. 2724-07, § 1, 10-8-07)~~

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

- (a) ~~(a)~~ Before plans are submitted for permit, the cityCity or designee ~~is to~~shall be consulted before any permanent structure or impervious paving is constructed within the tree protection area.
- (1) ~~(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. Any wall or fence on or near property lines shall be constructed so as to avoid damage to major roots of protected trees.
- (2) ~~(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 58-293~~ section 58-293 may be required.
- (3) ~~(3)~~ — Prior to demolition, grade change and/or construction, ~~a~~ tree protection ~~barrier~~barricades shall be placed and maintained as necessary to prevent ~~damaging~~damage to protected trees on, or adjacent to the subject property.

- (4) ~~(4)~~ —Tree protection ~~barrier(s) is to~~barricades shall be placed at or beyond the tree's drip-line whenever possible. At no time shall the tree protection ~~barrier(s)~~barricades be closer than ten feet from a trunk unless existing or proposed structures are within that range.
- (b) ~~(b)~~—On ~~single-family residential (R-1) and multi-family residential (R-2)~~all 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, as shown in Figure 1.~~
- (c) —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.

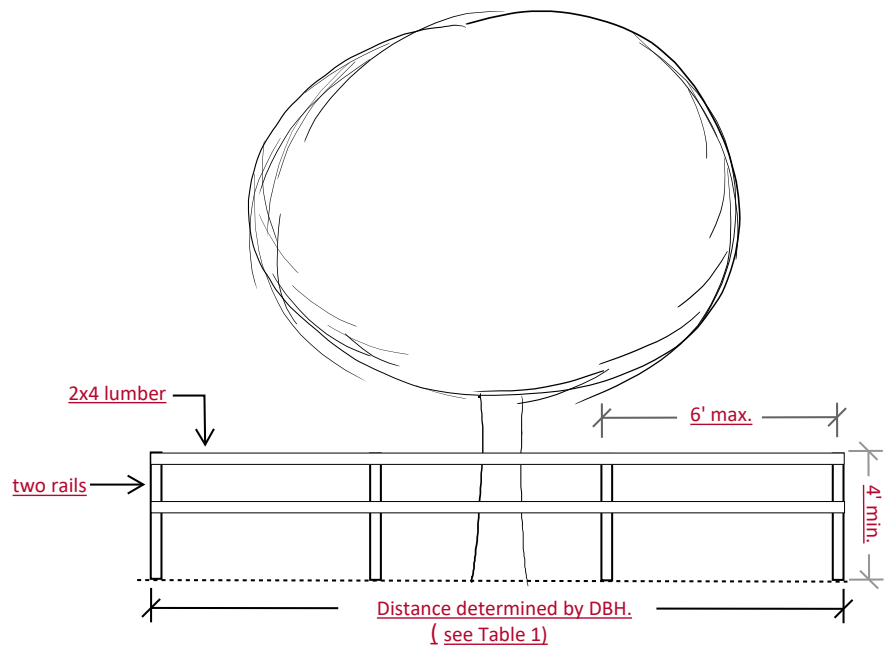
- (1) ~~(e)~~ —Barricade posts and two rails shall be made of two-by-four lumber.
- (2) Posts shall extend into the ground a minimum of eighteen inches.
- (3) The barricade shall be a minimum of four feet high with posts spaced no more than six feet apart.
- (4) Use the DBH of the existing tree to be preserved to determine the distance of the tree barricade from the protected tree.
- (5) Each side of the barricade shall maintain a minimum distance as specified in Table 1, measured from the perimeter of the tree trunk on all sides.
- (6) Barricade layout may be adjusted as required to accommodate sidewalks, curbs, buildings, and proposed building footprints.
- (7) Barricade shall remain in place and maintained throughout the construction process.

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(8) Only hand tools shall be used within the barricade. Trenching, digging, or grading is prohibited.

Figure 1. Tree barricade specifications.



Commented [RG1]: This is redundant of Table 1.

Table 1. Tree barricade distances.

Tree Barricade Distances	
DBH Range	Distance
6"-12"	10'
13"-18"	12'
19"-29"	15'
30"+	20'

Commented [JN2]: Re-do from scratch for format and changed data.

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

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-
- (1) ~~(1)~~ — Parking or use of vehicles, equipment, or machinery.
 - (2) ~~(2)~~ — Storing or dumping any material or liquids ~~of~~.
 - (3) ~~(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 cityCity determines to be injurious to the tree.
 - (e) ~~(g)~~ — The precautions required in this section may be modified or waived in writing by the cityCity.
- ~~(Ord. No. 2724-07, § 1, 10-8-07)~~

(Ord. No. 2724-07, § 1, 10-8-07)

Sec. 58-293. -- Precautions required for significant grade changes for protected trees.

- (a) Grade changes involving the removal or 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~~ prohibited. The removal of any soil is ~~not allowed~~ prohibited within the drip-line of pine trees. Before any grade changes involving the removal or addition 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 stacked 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.
- (b) New or expanded stormwater detention and retention areas shall maintain distance from existing trees sufficient to protect their root systems from significant damage. Where possible, retention shall not encroach on the drip-line of protected trees. Detention and retention areas shall remain a minimum of ten feet from protected trees measuring up to eighteen inches DBH and fifteen feet from trees measuring nineteen inches DBH or greater.

(Ord. No. 2724-07, § 1, 10-8-07)

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(Supp. No. 66, Update 1)

Sec. 58-294. ~~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.
- (d) All hardscapes installed near existing trees must remain a minimum of ten feet from the trunk perimeter.

(Ord. No. 2724-07, § 1, 10-8-07)

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.~~

(Ord. No. ~~Private trees encroaching on rights~~ 2724-07, § 1, 10-8-07)

~~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, owners~~ to keep trees ~~within the city right-of-ways on the owner's property trimmed which encroach on rights-of-way pruned~~ so that ~~motor vehicle~~the views of motorists and ~~pedestrian traffic~~pedestrians are not obstructed at intersections, points of ingress and egress, and/or sidewalks ~~on the public right-of-ways.~~ Where proper ~~trimming~~pruning is not maintained, the ~~city~~City may, after ~~notifying reasonable notice to~~ the property owner ~~responsible for the trimming~~, enter upon that property and perform the ~~necessary work necessary to comply with code.~~ Upon performing such work, the ~~city~~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. City Commission. The City may, without notice, prune any portions of privately-owned trees encroaching on rights-of-way that do not require accessing private property.~~

(Ord. No. 2724-07, § 1, 10-8-07)

Sec. 58-297. ~~296.~~ - 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.~~

- (a) The City of Winter Park shall have control of all ~~street~~ trees now or hereafter in any ~~street~~, park, ~~city~~ City right-of-~~ways or 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.

~~(Ord. No. 2724-07, § 1, 10-8-07)~~

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

- ~~(b) It shall be the duty of all owners of unlawful to move, remove, or damage any tree of any size on City property encumbered or crossed by city except as part of official City business and operations.~~
- ~~(c) Trees on City property, including exempt species, 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.~~
- ~~(d) Trees planted on rights-of-way shall be pruned by the City for clearance over roads and sidewalks, line-of-sight, around traffic signs and signals, streetlights and other public infrastructure. The City does not perform clearance pruning on portions of right-of-ways on which trees of any size are growing to provide for way trees which encroach on private property.~~
- ~~(b)(e) Property owners may request authorization from the proper maintenance of such trees in the city City to perform pruning of right-of-ways encumbering or crossingway trees at their property own cost provided that:~~
- ~~(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.1. Pruning shall retain the natural form of that tree species.~~

2. All tree pruning shall be conducted according to the ~~latest edition of the National Arborists Association (NAA) standards, the most current~~ International Society of Arboriculture (ISA) standards, and the ~~most current~~ American National Standards Institute (ANSI) A-300 ~~Part 1~~ 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.~~

~~(Ord. No. 2724-07, § 1, 10-8-07)~~

Sec. 58-297. - Trees on private property that impact public facilities.

- (a) Removal or pruning of a tree on private property that poses an unacceptable risk to public property or persons on public property is the responsibility of the property owner. If a City arborist determines

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that a tree poses an unacceptable risk, the City will send a written notice outlining the work that must be performed. The required work must be performed within thirty days of receipt of the notice.

(b) Failure to remove or otherwise make safe any tree deemed by the City to pose an unacceptable risk to public property or persons on public property 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 limb(s). Failure to comply with such an order may result in the City taking the necessary action to remove the tree or 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 within thirty days after invoicing, such charges shall be declared a lien on the property.

(Ord. No. 2724-07, § 1, 10-8-07)

Secs. 58-298—58-320. - Reserved.

DIVISION 8. - LANDSCAPE REGULATIONS^[7]

Footnotes:

--- (7) ---

Editor's note— Ord. No. 2766-09, § 1, adopted April 27, 2009, repealed the former Div. 8 and enacted a new Div. 8 as set out herein. The former Div. 8 pertained to similar subject matter and derived from Ord. No. 2418-01, § 1, adopted May 22, 2001.

Sec. 58-299. Penalties58-331. - Purpose and intent.

These regulations are enacted by the City for the purpose of the following:

* * *

(7) Upholding the intentions of the City's Tree Preservation Ordinance and Urban Forest Management Plan.

* * *

Sec. 58-333. – General criteria for all properties.

(Supp. No. 66, Update 1)

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(a) The use of appropriate Florida-Friendly landscape design is encouraged in order to reduce irrigation needs and to protect the waterfront. An irrigation system to be used during establishment and selectively during times of drought is still required for landscape plantings that feature Florida-friendly design. The nine principles are:

(4) *Mulch*: Maintain two to three inches of mulch to help retain soil moisture, prevent erosion and suppress weeds. Dyed mulch is not recommended due to concerns over source material. Cypress mulch and inorganic mulch are prohibited.

Commented [JN3]: Current language.

* * *

Sec. 58-336. – Non-residential and multifamily properties.

* * *

(g) *Stormwater detention and retention areas*. Stormwater detention and retention areas not screened from view from any public right-of-way by a building or wall shall be screened by a hedge maintained at a four-foot height installed in a landscape area a minimum of four feet in width. In addition, a bald cypress tree of at least four caliper inches shall be planted within the stormwater retention area for each fifty linear feet of the stormwater retention area.

Commented [JN4]: Current language.

* * *

Sec. 58-337. – Landscape materials and installation for non-residential and multifamily properties.

* * *

(i) All plant material shall be maintained in a plumb, upright and stable condition. Trees shall not be guyed or staked except in certain circumstances where the soil or slope presents a reasonable potential for the uprooting and overthrowing of trees by wind. All trees/palms shall be guyed or staked for a minimum of one year. If trees/palms are well rooted, the guying or staking attachments shall be removed by the end of the thirteenth month. Attachments shall be adjusted regularly to prevent girdling of trunks or branches.

Commented [JN5]: Current language.

Commented [JN6]: Current language.

* * *

Sec. 58-339. – Tree protection and 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.

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(Supp. No. 66, Update 1)

{Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2895-12, § 1, 11-26-12}

The protection and/or removal of existing trees at six inches DBH or greater are governed by the City's Tree Preservation Ordinance detailed in Division 6 - Tree Removal and Protection. Landscape plans prepared for compliance with these regulations shall include the locations of the protected trees along with the species and size and the calculations for the proposed preservation or removal pursuant to the City's tree ordinance.

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* * *

~~Sec. Secs. 58-301—58-320. Reserved.~~