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## **Sec. 94-448. - Protection of trees and other vegetation.**

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- a. *Intent.* The intent of this section is to protect trees and vegetative cover within the limits of the city.
- b. *Removal of trees from median, parkway, park or city owned property.* No person other than the city shall remove any tree from the median, parkway, park or city owned property without first obtaining a permit from the city.
- c. *Application.* The terms and provisions of this section shall apply to real property as follows:
  1. All real property upon which any designated specimen or historic tree is located. A tree may be designated a specimen or historic tree by the following criteria:
    - a. *Historic tree.* A tree may be determined to be of notable historic interest to the city due to its age, type, size, or historic association with the community; and designated as such by the city commission. A registry of historic trees shall be maintained by the planning division.
    - b. *Specimen tree.* A tree may be determined, in the judgment of a professional forester, landscape architect, arborist, horticulturist, or similar expert, to be of high value of the community, because of its type, size, age, or other professional criteria; and designated as such by the city commission. Specimen trees may be protected by conditions of approval of development orders.
  2. All vacant and undeveloped property, and property containing no permanent buildings.
  3. All property containing permanent structures, upon which no designated specimen or historic tree is located.
  4. All redeveloped property.
- d. *Permits required.*
  1. *Tree alteration permit.* Historic trees, specimen trees, and any other trees or vegetation located on property subject to the provisions of this section shall not be removed, relocated, or replaced unless a tree alteration permit is obtained. Tree alteration permit applications shall be provided by the planning and zoning administrator. The application shall include a written statement that specifies the location of the property, expected use of the property, and reasons for removal, relocation, or replacement. The planning and zoning administrator may require submission of a landscape plan or aerial photograph when a permit is requested.
  2. *Removal of trees and shrubs.* A permit to remove trees and vegetation shall not be issued unless one or more of the following conditions exists:
    - a. The tree is not a designated historic or specimen tree per section 94-448(c)(1)b.
    - b. The tree cannot be relocated on or off the site because of its age, type, or size.
    - c. The trees or shrubs constitute an unreasonable impediment to development of a permitted use of the property by virtue of their location in a buildable area or yard area where structures or improvements are to be placed.
    - d. The trees or shrubs are diseased, injured, in danger of falling, too close to existing or proposed structures, interfere with existing or proposed utility services, create unsafe visual conditions affecting vehicular traffic, conflict with requirements of other ordinances of this chapter, or are a threat to the public health, safety, and welfare.
    - e. The trees that are prohibited trees as specified in subsection 94-445(4)i.
    - f. The planning and zoning administrator's decision for removal will be in the public interest.
  3. *Tree relocation and replacement.* The applicant for a tree removal permit shall be required to relocate or replace trees to be removed or provide payment in lieu thereof into the landscape trust account for trees that cannot be relocated, replaced or installed due to preexisting site development constraints as determined by the planning and zoning administrator. Native trees and palms in good condition must be preserved on site or relocated. Relocated trees shall be installed in a sound and skilled manner according to accepted planting practices and shall be in accordance with the following:
    - a. If the tree is transplanted, it shall be moved by the property owner in accordance with the National Arborist Association Standards or other professional arborist association, currently the ANSI A-300 standards, to another location within the city and maintained by the new property owner.

- b. If a tree on public property is willfully destroyed by anyone except the city forester/arborist, the tree must be substituted with an equivalent replacement that is approved by the forester/arborist or designer on the site from which the destroyed tree was removed.
- c. No permit shall be required for the removal of trees that are dead, severely diseased, are invasive exotic species, or are destroyed by natural causes. This includes trees that are planted in a certified nursery or botanical garden.

e. *Tree replacement.*

1. *Characteristics.* Replacement trees shall have shade and screening potential equal to or superior to that of the trees they replace at the time of the initial installation, except as provided as follows:
  - a. Trees that are 20 feet or more in canopy size shall be mitigated based upon the size of the existing tree canopy, not the number of trees (i.e., if 100 square feet of existing canopy is removed, 100 square feet of canopy shall be planted). Suggested tree species listed by canopy coverage category can be referenced as provided in the landscape design manual, as amended from time to time, and available for inspection in the planning and zoning division.
  - b. Palm trees shall be mitigated on a one for one basis. When palm trees are substituted for shade trees, the equivalent canopy shall be replaced according to the category of the replacement species.
2. *Payment in lieu.* If it is determined by the planning and zoning administrator that the application for tree removal meets the permit requirements of subsections (d)(1) and (d)(3) above, but replacement, relocation or installation of trees and shrubs is not feasible due to site constraints, the following shall apply:
  - a. The applicant/owner shall make payment to the city's landscape trust account in lieu of actual tree or shrub replacement or installation. Funds collected pursuant to this section shall be expended for the purchase of trees for placement on public properties within the city.
  - b. The payment due shall be calculated based upon the costs for the number and type of tree(s) and/or shrubs required to be replaced or installed based upon the current edition of the plant finder catalog, plus installation cost equal to one times the cost.
3. *Minimum standards.* All replacement trees shall be equal to or better than Florida Department of Agriculture Number 1 Nursery Grade Standard. All trees replaced or relocated pursuant to this section must be in a healthy, living condition one year from the date of planting. Replacements that are not established, have failed to a degree that survival is not probable, or have died must be replaced with healthy specimens. Such replacements must continue until a tree is established at the approved location.
4. *Waivers of replacement standards.* Minimum standards may be waived if the applicant can demonstrate that current market conditions result in a shortage of appropriate replacement trees.

f. *Tree protection.*

1. *Land clearing and construction.* During land altering and construction, protective barriers specified by the planning and zoning administrator shall be erected and maintained around all trees or groups of trees to be protected. The movement of equipment or the storage of equipment, materials, and placement of debris or fill within protective barriers is prohibited.
2. *Toxic substances.* During land alteration and construction, the cleaning of equipment or materials and the disposal of waste material such as paint, oil, solvents, asphalt, concrete, or mortar within the dripline of any tree or groups of trees is prohibited. Contaminated earth must be replaced.
3. *Attachments and wires.* Attachments or wires, except those of a protective nature, shall not be attached to any tree.
4. *Alternate means of protection.* Trees located within portions of a development site where land clearing and construction activities will not occur or where heavy machinery will not operate shall not require protective barriers. Such areas shall be staked and roped, ribboned, or otherwise designated.
5. *Removal of dangerous trees.* A tree alteration permit for the removal of a tree determined by competent authority to be in a hazardous or dangerous condition so as to endanger the public health, welfare, or safety, and require immediate removal without delay, may be issued after such tree has been removed.
6. *Suspension.* Following an emergency such as a hurricane, tropical storm, tornado, or flood, and other natural causes such as drought conditions and freeze damage, the requirements of this section may be suspended by the planning and zoning administrator for a period of 30 days. Such a suspension shall apply only to trees which have been damaged beyond saving or are a hazard, provided that the planning and zoning administrator is notified of the intended removal at least 24 hours prior to removal.

7. *Exemptions.* All licensed plant or tree nurseries and tree farms shall be exempt from the provisions of this section. However, this exemption shall apply only to those trees planted and growing on the premises of the licensee and intended for sale to the general public in the ordinary course of business.
8. *Exempt trees.* The trees and species listed in section 94-445(h)i. shall be exempt from the provisions of this section.
9. *Removal and disposal of diseased trees.* Trees which are determined by the planning and zoning administrator to be diseased and to be a potential source for contaminating other trees, or for spreading tree infection or disease, shall be removed and disposed of without undue delay on an emergency basis, as the circumstances may require. The lethal yellowing disease of coconut trees shall be considered an emergency tree infection or disease.
10. *Trees on city property.* Trees on city property shall not be removed by any firm, corporation, or individual unless prior approval is granted by the city manager or that official's designee.
11. *Removal and disposal of prohibited trees.* Trees which are included as prohibited trees pursuant to subsection 94-445(4)i shall be removed and disposed of from the entire site before a certificate of occupancy can be obtained.
- g. *Penalty for violation of protected trees.* In addition to penalties provided in section 94-9, the city shall have the option of pursuing civil actions in a court of competent jurisdiction for violation of any provision of this section or any special condition which may be imposed in a permit or other development order. The court or special magistrate may order a combination of tree replacement and fines for violations of this section. Funds collected as fines for violation of this section shall be expended for the purchase of trees for replacement on public property within the city. Replacement of illegally removed trees may be required as restitution in lieu of fines.

(Code 1979, § 33-167; Ord. No. 4433-12, § 4, 9-18-2012; Ord. No. 4514-14, § 1, 6-9-2014; Ord. No. 4689-16, § 7, 4-11-2017; Ord. No. 4756-17, § 6, 2-12-2018)