

- mankind; reduce the levels of carbon monoxide in the air; dilute air pollutants; and reduce noise pollution.
- (2) Trees play a pronounced and important role in citywide soil conservation, soil enrichment, and erosion control.
 - (3) Trees enhance the value of property by providing a valuable psychological and visual counterpoint to manmade changes during land development and urbanization.
 - (4) Trees provide wildlife habitats and play other important ecological roles.
- (Code 1988, § 12.5-41)

Sec. 114-62. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Clearing means the removal of a tree by digging, pushing, or cutting, or the effective removal through damage.

Conservation areas means lands which have unsuitable or nonrated soils, wetland vegetative species, which are seasonally flooded and which perform an environmental function, as described in the comprehensive plan.

Diameter at breast height (DBH) means the diameter, in inches, of a tree measured at 4½ feet above the existing grade.

Dripline means an imaginary line on the ground defined by vertical lines which extend from the outermost tips of the tree branches to the ground.

Historic tree means a tree which has been found by the city to be of notable historic interest because of its age, type, size or historic association.

Protective barrier means a physical structure limiting access to a protected tree area.

Specimen tree means a tree which has been determined by the city to be of high value because of its type, size or other professional criteria.

Stand of trees means a naturally occurring grouping of five or more trees forming a canopy of vegetation which results in a single unified dripline.

Tree means any living, woody, self-supporting perennial plant which has a single trunk and which normally grows to a minimum height of 15 feet.

(Code 1988, § 12.5-42)

Cross reference—Definitions generally, § 1-2.

Sec. 114-63. Jurisdiction.

This article shall apply to all real property lying within the incorporated areas of the city.
(Code 1988, § 12.5-43)

Sec. 114-64. Penalty for violation.

(a) If a tree not authorized for removal is removed, altered or damaged such that its susceptibility to disease or other detrimental environmental factors is significantly increased which may result in premature death, the person causing such removal, alteration, damage or premature death shall pay to the city \$25.00 per diameter inch (DBH) of each such tree. In addition, where violations of this article have occurred, remedial action shall be taken to restore the property consistent with a restoration plan approved by the building official. The restoration plan may require tree replacement at not more than a 4:1 ratio and require mitigation of any other damage to the property, as well as tree replacements.

(b) No certificate of occupancy shall be issued for any development until all applicable permit or restoration plan conditions have been accomplished.

(c) Trees destroyed or receiving major damage in violation of section 114-72 must be replaced by either a comparable size and type tree or a minimum ten-foot-tall tree from the recommended stock list, at a 4:1 ratio, before a certificate of completion or certificate of occupancy is issued.

(d) Failure to comply with required remedial action shall be referred to the city commission.

(e) Any violation of this article shall render the person causing or permitting the violation as well as the property owner subject to the penalties in this section, including the following to be determined by the city commission:

- (1) A fine of up to but not exceeding \$25,000.00. In assessing the fine the city commission shall consider, among other things, the size, age and health and amount of trees damaged or removed.
- (2) Cancellation of all building permits and site plan approvals until payment of all fines and completion of all restoration work. After payment of all fines and completion, to comply with prior approval or issuance of any new permits, new plans will be required.
- (3) Payment of attorney's fees and costs incurred by the city in enforcement of this article regarding such violation.

(Code 1988, § 12.5-44)

Sec. 114-65. Variances.

The preservation of any tree on the recommended stock list over 24 inches DBH may be considered as the basis for the granting of a variance from the literal application of city's zoning or subdivision regulations. If, in the determination of the city manager, the sole basis for the

request for a variance is to preserve such tree which would otherwise have to be removed, he may direct the required variance fee to be waived.
(Code 1988, § 12.5-45)

Sec. 114-66. Appeals.

Any person adversely affected by the decision of the development review committee or the building official in the enforcement or interpretation of this article may appeal such to the city commission within 30 days.

(Code 1988, § 12.5-46)

Sec. 114-67. Exceptions and exemptions.

(a) The requirements of this article shall not apply to the following, unless the area is designated as a conservation area:

- (1) Trees less than 12 inches (DBH) upon a lot where a single or duplex residential structure exists.
- (2) Public road or drainage rights-of-way or utility rights-of-way or permanent utility and drainage easements, except that whenever any electric, water, telephone or other public utility firm or corporation wishes to extend, maintain or relocate service such that any tree on an unimproved lot or tract will be removed, it shall make application for a permit to do so. Any public utility wishing to prune trees on a right-of-way shall notify the building department in writing in advance of the time and place those pruning activities will take place. The building department shall supervise these activities as necessary and shall have the authority to regulate or halt such pruning when these actions are deemed detrimental to the trees or beyond that needed to ensure continued utility service.
- (3) The trees listed in subsection 114-75(b).
- (4) Trees less than three inches DBH.
- (5) Underbrush, including palmetto and shrubs, provided that such removal does

not adversely affect trees, other than those specified in this subsection, within their dripline.

- (6) Trees from licensed plant nurseries.
- (b) On application of any landowner, due to an emergency or special circumstances, the city may waive the requirements of this article. Any waiver of this article shall be solely within the discretion of the city commission.
(Code 1988, § 12.5-47)

Sec. 114-68. Designation of specimen and historic trees.

Any public official or private citizen may recommend from time to time the designation of certain trees located within the city as specimen or historic trees. The city manager shall review such recommendations and add his own comments and recommendations, and the matter shall be presented to the city commission for its determination. The city commission shall consider the report and recommendation of the city manager and shall either accept, modify or deny the recommendation and may designate by resolution those trees it deems appropriate as specimen or historic trees.

(Code 1988, § 12.5-48)

Sec. 114-69. Land clearing prior to development approval.

(a) No land clearing, land removing, or land filling shall occur in the city without first securing a permit from the building department, except as provided in sections 114-67 and 114-72. The building department may issue a tree removal permit for specific trees as requested on the application.

(b) An application for tree removal shall be obtained from the building department. Complete applications shall be returned to the building department along with the following information:

- (1) A tree survey consisting of a scaled aerial photograph or drawing of one inch equals 100 feet or greater, indicating:
 - a. Property boundaries with dimensions and bearings, surrounding

streets, north arrow, scale, and existing/proposed development improvements.

- b. Stands of trees, including:
 - 1. Location indicating extent of dripline.
 - 2. Common names of major tree classes.
 - 3. Estimated average height.
- c. All individual trees, not on the restricted list, which are 12 inches DBH or greater, including:
 - 1. Location.
 - 2. DBH.
 - 3. Common name.
 - 4. Estimated height.
- (2) An indication of the trees proposed for removal.
- (3) The reason for removal.
- (4) Plans showing typical protective barriers to be used.

(Code 1988, § 12.5-49)

Sec. 114-70. Development of residential, commercial or industrial subdivisions.

The submittal information for development of residential, commercial, or industrial subdivisions, including individual lot site plans, shall be the same as for removing trees from land without development approval. This information shall be submitted with the preliminary subdivision plan or the site plans for individual lots. Tree removal permits shall not be granted by the building department until final plans have been approved for both subdivisions and individual site reviews. (Code 1988, § 12.5-50)

Sec. 114-71. Individual lots/parcels for single-family or duplex development.

- (a) For individual lots or parcels for single-family or duplex development only, tree removal permission is granted solely through the city building department. The building permit plot plan shall show the following:
 - (1) All trees 12 inches DBH or greater, including:
 - a. Location.
 - b. DBH.
 - c. Common name.
 - d. Estimated height.
 - (2) All trees three inches to 12 inches which are designated to be retained, including:
 - a. Location.
 - b. DBH.
 - c. Common name.
 - (3) An indication of the trees proposed for removal.
 - (4) The reason for removal.
 - (5) Plans showing typical protective barriers to be used.

(b) A minimum of three trees shall be required at the time a certificate of occupancy is issued for each newly constructed single-family or duplex building, on each lot having 6,000 square feet or more. On lots with less than 6,000 square feet, two trees will be required at the time of a certificate of occupancy is issued. In residential planned developments some of the required trees may be located off the individual lots, subject to approval of specific landscape plans. The required trees to be installed, rather than retained, shall be a minimum of ten feet tall and shall be on the recommended stock list.

(c) Issuance of the building permit shall constitute approval for tree removal.

(Code 1988, § 12.5-51)

Sec. 114-72. Protection during development and construction.

- (a) It shall be unlawful for any person, during the construction of any structure or other improvement, to place solvents, material, construction

machinery or temporary soil deposits within the dripline of any tree which is designated to remain.

(b) Before construction, land clearing, filling or any land alteration, protective barriers shall be required to be erected, where necessary, around those trees designated for saving. This requirement shall be imposed by the city if the proximity of construction activity may jeopardize the survival of a tree. No work shall commence on any project until the building official has made an on-site inspection of all protective barriers to ensure their adequacy. It shall be the responsibility of the developer or applicant to ensure that any tree so designated for preservation be protected. The property owner shall guarantee survival for one year and shall maintain all trees in a healthy condition.

(c) Protective barriers and precautions required by the terms of the permit must comply with the following:

- (1) Protective posts, consisting of two-inch by four-inch or larger wooden posts, two-inch outer diameter or larger galvanized pipe, or other post material of equivalent size and strength, to be implanted deep enough in the ground to be stable and with at least four feet of the post visible above the ground.
- (2) Posts shall be placed at points not closer than one-half the radius of the dripline of the protective tree, with the posts not being further than six feet apart.
- (3) All protective posts shall be linked together by fencing at least three feet high, or two courses of one-inch by four-inch boards. Each section shall be clearly visible by flagging with brightly colored plastic tapes or other markers.
- (4) Large property areas containing protected trees and separated from construction or land clearing areas, road rights-of-way and utility easements may be ribboned off in lieu of erecting barriers as otherwise required in this subsection by placing stakes a minimum of 50 feet apart and by

tying ribbon, plastic tape, rope, etc., from stakes along the outside perimeters of such areas to be cleared.

- (5) No grade changes shall be made within the protective barrier zones without prior approval from the building department. Where roots greater than one inch in diameter are exposed, they shall be cut cleanly and painted, if necessary, to maintain the natural existing soil level. All efforts shall be made through the grading and drainage plan to maintain the natural drainage to such trees.
 - (6) Protective barrier zones shall remain in place and intact until such time as landscape operations begin in the immediate area or construction is completed, whichever occurs first.
 - (7) No attachments or wires other than those of a protective or nondamaging nature shall be attached to any tree.
- (d) The building department shall conduct periodic inspections of the site. It is the responsibility of the applicant to ensure that all sections of this article are met.
(Code 1988, § 12.5-52)

Sec. 114-73. Criteria for tree removal.

Tree removal may be approved where design modifications are not feasible or reasonable and one or more of the following circumstances exist:

- (1) *Street opening.* The location of a tree unreasonably restricts the opening of a street or road right-of-way.
- (2) *Utilities and drainage.* The location of the tree unreasonably restricts the construction of utility lines or drainage facilities.
- (3) *Property access.* The location of the tree unreasonably restricts access to the property.
- (4) *Property use.* The tree unreasonably prevents development of a lot or parcel or the physical use thereof. It is the intent of this subsection that no permit shall be granted for the removal of any tree where the applicant has failed to design and locate

the proposed improvements to minimize the removal of trees consistent with the permitted use of the property under chapter 118.

- (5) *Hazards.* The tree constitutes a hazard to life or property which cannot be mitigated without removing the tree.
- (6) *Poor health care.* The tree is dying or dead, so that its restoration to sound condition is not practical, or the tree has a disease which can be expected to be transmitted to other trees and to endanger their health.
- (7) *Relocation limitations.* The trees cannot reasonably be relocated on or off the site because of age, type, or size based upon accepted forestry practices.

(Code 1988, § 12.5-53)

Sec. 114-74. Relocation or replacement.

(a) As a condition of granting a permit under this article, the applicant may be required, where practical, to relocate the tree being removed elsewhere on the same site or may be required to replace the tree on a two-for-one basis with suitable replacement trees. The replacement trees shall have at least equal shade potential and shall be minimum of ten feet high at the time of planting.

(b) In determining the required relocation or replacement of trees, the city shall consider the needs of the intended use of the property, together with an evaluation of the following:

- (1) Existing tree coverage;
- (2) Number of trees to be removed on the entire property and their corresponding relocation limitations;
- (3) Area to be covered with structures, parking and driveways;
- (4) Topography and drainage of the site and its environs;
- (5) Character of the site and its environs;
- (6) Ecology of the site; and

(7) Characteristics and amount of shrubs, grass and trees proposed for planting on the site by the applicant.

(c) Trees which must be removed under this article and not relocated or replaced on site shall be offered to the city for relocation to a public place to help preserve the overall natural resources of the community. The city shall bear the costs and responsibility for all relocations and shall act in a forthright and expeditious manner to effectuate arrangements with the landowner to accomplish such relocations.

(Code 1988, § 12.5-54)

Sec. 114-75. Recommended and restricted trees.

(a) *Recommended stock.* The following tree replacement species are suggested for the purposes of this article; the following trees may be used as replacement stock without prior approval; all other replacement trees must be approved by the building department and shall be included in the book "Guide to the Vascular Plants of Central Florida" by Richard P. Wunderlin:

- (1) Loquat (*Eriobotrya japonica*).
- (2) Live oak (*Quercus virginiana*).
- (3) Laurel oak (*Quercus laurifolia*).
- (4) Red maple (*Acer rubrum*).
- (5) Sweet gum (*Liquidambar styraciflua*).
- (6) Sycamore (*Platanus occidentalis*).
- (7) Goldenrain tree (*Koelreuteria formosana*).
- (8) Camphor (*Cinnamomum camphora*).
- (9) Bald cypress (*Taxodium distichum*).
- (10) Southern magnolia (*Magnolia grandiflora*).
- (11) American holly (*Ilex opaca*).
- (12) Dahoon holly (*Ilex cassine*).
- (13) Cherry laurel (*Prunus caroliniana*).
- (14) Southern red cedar (*Juniperus silicicola*).
- (15) Crape myrtle (*Lagerstroemia indica*).
- (16) Black cherry (*Prunus serotina*).
- (17) Flowering dogwood (*Cornus florida*).

- (18) Redbud (*Cercis canadensis*).
 - (19) Chickasaw plum (*Prunus angustifolia*).
 - (20) Jerusalem thorn (*Parkinsonia aculeata*).
 - (21) Coast pignut hickory (*Carya glabra megacarpa*).
 - (22) Pecan (*Carya illinoensis*).
 - (23) Weeping willow (*Salix spp.*).
 - (24) Fringe tree (*Chionanthus virginicus*).
 - (25) Loblolly bay (*Gordonia lasianthus*).
 - (26) Glossy privet (*Ligustrum lucidum*).
 - (27) Nagi (*Podocarpus nagi*).
 - (28) Red buckeye (*Aesculus paula*).
 - (29) Ironwood (*Carpinus caroliniana*).
 - (30) Scrub hickory (*Carya floridana*).
 - (31) Pignut hickory (*Carya glabra*).
 - (32) Hackberry (*Celtis laevigata*).
 - (33) Swamp dogwood (*Cornus foemina*).
 - (34) Tulip tree (*Liriodendron tulipifera*).
 - (35) Sweet bay (*Magnolia virginiana*).
 - (36) Wax myrtle (*Myrica cerifera*).
 - (37) Wild olive/devilwood (*Osmasnthus americanus*).
 - (38) Red bay (*Persea borbonia*).
 - (39) Sand live oak (*Quercus geminata*).
 - (40) Bluejack oak (*Quercus incana*).
 - (41) Scrub oak (*Quercus inopina*).
 - (42) Turkey oak (*Quercus laevis*).
 - (43) Myrtle oak (*Quercus myrtifolia*).
 - (44) Water oak (*Quercus nigra*).
 - (45) Spanish oak (*Quercus shumardii*).
 - (46) Pond cypress (*Taxodium ascendens*).
 - (47) Basswood (*Tilia americana*).
 - (48) Winged elm; cork elm (*Ulmus alata*).
 - (49) American elm; white elm (*Ulmus americana*).
 - (50) Sparkleberry (*Vaccinium arboreum*).
 - (51) Walters viburnum (*Viburnum abovatum*).
 - (52) Pindo palm (*Butia capitata*).
 - (53) Canary Island date palm (*Phoenix canariensis*).
 - (54) Sabal palm (*Sabal palmetto*).
 - (55) Washington palm (*Washingtonia robusta*).
 - (b) *Restricted stock.* The following trees may not be used as replacement stock within the city:
 - (1) Silk oak (*Grevillea robusta*).
 - (2) Jacaranda (*Jacaranda acutifolia*).
 - (3) Australian pine (*Casuarina spp.*).
 - (4) Cama eucalyptus (*Eucalyptus camaldulensis*).
 - (5) Ear tree (*Enterolobium cyclocarpum*).
 - (6) American mulberry (*Morus urbra*).
 - (7) Chinaberry (*Melia azedarach*).
 - (8) Cajeput or punk tree (*Melaleuca leucadendron*).
 - (9) Citrus trees (all types).
 - (10) Florida holly or Brazilian pepper (*Schinus terebinthifolius*).
 - (11) Chinese tallow tree (*Sapium sebiferum*).
 - (12) Mimosa (*Albizia julibrissin*).
 - (13) All palms, except as specified in subsection (a) of this section.
- (Code 1988, § 12.5-55)

Sec. 114-76. Fees.

All fees for tree removal permits shall be established in chapter 88 of this Code.
(Code 1988, § 12.5-56; Ord. No. 98-03, § I, 2-12-98)

Sec. 114-77. Adoption of rules and regulations.

The city commission is authorized to adopt by resolution such rules and regulations as are necessary or proper to implement this article.
(Code 1988, § 12.5-57)

