

Sec. 115-10. Tree protection and vegetation preservation.

Purpose and intent. The purpose of this section is to establish rules and regulations governing the protection of trees and vegetative cover as a valuable community resource within the City; to encourage the proliferation of trees and vegetation within the City as well as their replacement; to recognize their importance and their meaningful contribution to a healthy, beautiful, and safer community attributable to their carbon dioxide absorption, oxygen production, dust filtration, wind and noise reduction, soil erosion prevention, lakeshore erosion protection, wildlife habitat, surface drainage improvement, beautification and aesthetic enhancement of improved and vacant lands; and the general promotion of the health, safety, welfare and well-being of the community. Tree protection is beneficial to the City by improving community appearance and quality of life, enhancing property values, and creating a functional and aesthetically pleasing living environment for existing and future residents. Therefore, the City finds that it is in the best public interest to enact and enforce the regulations described herein for the purpose of controlling tree removal, clear cutting and strip clearing of land.

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.1. General requirements and definitions.

- (a) The terms and provisions of this section shall apply to all real property located within the corporate boundaries of the City, except such properties as are exempted herein.
- (b) It shall be unlawful for any person, firm or corporation, either individually or through an agent to cut down, destroy, clear cut, remove, or effectively destroy through damaging any protected tree without first obtaining an approved City tree removal permit, except as specifically exempted herein.
- (c) Developers of sites that have been completely or partially cleared of trees due to agricultural use or other reasons shall be required to comply with the minimum tree requirements as described in section 115-10.7.
- (d) Issuance of a City tree removal permit, or exemption from these requirements, does not exempt any legal obligation or requirement to comply with the regulations of any other governmental agency, local, state, or federal which may have jurisdiction over proposed activity upon the land.
- (e) Trees and vegetative groundcover should be preserved or enhanced in development areas exceeding ten percent slope, within the 100-year floodway, or within 50 feet of the ordinary high water line of lakes, rivers or canals to the greatest extent practicable. This 50-foot buffer area shall remain a natural vegetative buffer zone between development areas and the above-referenced water courses, except for City-approved water-related facilities, such as docks, walkovers, ramps, marinas, etc.
- (f) A protected tree is any tree not listed on the list of noxious/exotic species in section 115-10.9 and meeting one of the following requirements:
 - (1) Trees with a DBH of six inches or greater.
 - (2) Trees located in a wetland area as determined by the agencies having jurisdiction.

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- (g) A specimen tree is a tree designated by the City Commission that is rare or unique due to factors such as size, age, ecological value, or type of species having one or more of the following characteristics:
- (1) A diameter of 30 inches DBH or greater.
 - (2) A determined age of 50 years or greater.
 - (3) A determined ecological value; e.g. wildlife habitat, erosion control, etc.
 - (4) A determined unique form or shape due to geography, climate, environment or natural growth conditions.
 - (5) A rare, or unique, non-indigenous tree that is not common to the City (but not on the list of noxious/exotic species).

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.2. Exemptions.

A tree removal permit (see section 115-10.3, Review procedures, and section 115-10.4, Submission requirements) shall not be required under the following conditions and situations as determined by the Director of Development Services or designee:

- (a) A bona fide agricultural use such as citrus, tree nurseries, forest crops, animal husbandry, and greenhouses.
- (b) Removal of dead trees.
- (c) Removal of trees that are an imminent danger to public or private property, as verified by the Director of Development Services or designee.
- (d) Removal of trees planted on the premises of a plant nursery or tree farm that have been grown expressly for the purpose of selling to the general public in the ordinary course of business.
- (e) Removal of any tree on the list of noxious/exotic species in section 115-10.9.
- (f) Removal of trees within approved utility rights-of-way or easements that are necessary to supply gas, water, sewer, telephone, cable television, electrical service, or other needed utilities. This exemption applies only to authorized personnel of the applicable utility and not to the property owner.
- (g) Public utilities with the power of eminent domain may remove or transplant trees either on-site or off-site without a permit.
- (h) Emergency conditions may require the Director of Development Services or designee to waive all, or part, of the requirements of this chapter in the event of manmade or natural disasters such as hurricanes, tornadoes, floods, storms/high winds, hard freezes, fires, etc. The waiver shall apply to a geographically defined area for a period not to exceed 90 days. Longer periods shall require City Commission approval.

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.3. Review Procedures.

- (a) A tree inventory and tree removal permit application shall be submitted to the Director of Development Services or designee prior to the commencement of any development activity, except as specifically exempted herein.
- (b) Trees may be removed for construction purposes where all reasonable alternatives are exhausted for relocating the specific construction.
- (c) The removal/replacement of trees that are 24 inches DBH or greater is strongly discouraged. Therefore, all reasonable alternatives or methods that are available, such as design modifications, shall be closely examined before removal will be authorized.
- (d) During application review, the Director of Development Services or designee shall consider the effect that the proposed development activity will have on the future viability of the trees to be retained/relocated within the area to be developed.
- (e) A tree removal permit shall be issued, as determined by the Director of Development Services or designee, if one or more of the following conditions exists:
 - (1) *Street opening*. Tree location restricts the opening of a street or road right-of-way.
 - (2) *Utilities and drainage*. Tree location restricts the construction of public utility lines or drainage facilities.
 - (3) *Property access*. Tree location restricts vehicular access to the property, where there are no other reasonable access points.
 - (4) *Property use*. Tree location restricts reasonable use of the property consistent with all other applicable City, county and state codes, statutes and/or ordinances; and design modifications are not practical or reasonable.
 - (5) *Hazard*. A tree that constitutes a hazard to life or property and can be resolved by removal.
 - (6) *Poor tree health*. Tree is diseased, lacking functioning vascular tissue, or deteriorating to such a state that restoration methods to bring the tree to a sound condition are not practical; or the tree has a disease that can be expected to be transmitted to other trees thereby endangering their health.
 - (7) *Single family home*. The protected tree is located within 15 feet of an occupied single family residence, but not within a public right-of-way or on someone else's property. The 15 foot distance shall be measured from the trunk of the subject tree to the dwelling unit structure.
 - (8) *Thinning of trees*. Trees are so densely situated on a parcel as to significantly impair light and air circulation, which causes poor health conditions or tree disease, so that removal of up to 25 percent of such trees is necessary to alleviate the condition.
 - (9) *Redevelopment*.
 - For nonresidential developments, mixed use developments, and multi-family developments: The property owner has submitted a revised landscape plan consistent with City regulations for redevelopment of the subject site.

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- For developed single family residential lots: The property owner is replacing the tree in another location or with an alternative species. The replacement tree must meet the minimum requirements set forth in section 115-10.7.
 - For purposes of these land development regulations, redevelopment shall not be considered a valid condition for removal if the tree removal permit is submitted after the fact.
- (f) An approved City tree removal permit shall identify which trees are to be removed, methods of protection from impacts of construction, and the tree replacement requirements necessary to compensate for the loss of protected trees. The minimum compensation requirement shall be the number of replacement trees required to maintain compliance with the minimum tree requirements included in section 115-10.7.

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.4. Submission requirements.

- (a) Clear-cutting of vacant land without an approved development plan is prohibited. All property owners planning to initiate any development activity which has the potential to affect trees and vegetative cover are hereby required to submit a City tree inventory and tree removal permit application. This requirement includes, but is not limited to, the following:
- (1) Developers of all new residential subdivisions shall be required to submit a tree inventory and tree removal permit application at the time of initial preliminary plan submittal to the City, so that due consideration may be given to protection of trees during the subdivision design and review process.
 - (2) Developers of any commercial, industrial, multi-family, or other use, requiring site plan approval under the jurisdiction of this land development regulation, shall be required to submit a tree inventory and tree removal permit application at the time of initial site plan submittal to the Development Services division, so that due consideration may be given to protection of trees during the site plan design/review process. A tree inventory may be shown on the site plan.
 - (3) Developers of all new single family and duplex dwelling units shall be required to submit a tree inventory/tree removal permit application at the time of City-issued building permit application. A tree inventory may be shown on the building permit site plan.
- (b) Each tree inventory, for subdivision/site plan review, shall consist of a drawing or accurate representation with an appropriate scale to show tree locations, delineating the following information:
- (1) Property boundaries, existing and proposed structures and surrounding road system;
 - (2) Location, number, size, and species (utilizing botanical or common names) of all trees with a six inch dbh or greater within areas to be disturbed by construction. With approval of the Director of Development Services, the inventory requirements may be modified for heavily wooded sites.

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.5. Tree Replacement.

- (a) All protected trees that have been removed, for which an approved City tree removal permit was required but not obtained and which do not meet the criteria listed under section 115-10.3 (e), will require replacement at a ratio of two replacement trees for each tree removed without a permit and other possible sanctions as determined by the code enforcement board or the special magistrate in accordance with F.S. § 162.09(2)(a).
- (b) All replacement trees shall be a minimum of two inches DBH, ten feet tall, and five feet wide at the time of planting and selected from the approved tree list included in section 115-10.7. Approved ornamental and palm trees shall not exceed 25 percent of tree replacement requirements and at least 50 percent of the trees shall be live oaks.
- (c) Replacement trees shall be planted on-site, if practical, otherwise the developer/property owner shall donate the monetary value of the required trees to the City for the purpose of planting trees on public property.
- (d) All replacement trees shall be in good health, conform to the standards for Florida No. 1 or better as given in Grades and Standards for Nursery Plants, State of Florida, Department of Agriculture and Consumer Services, Tallahassee (97T-05, second edition, February 1998), which is hereby adopted and included by reference herein. A copy of such publication is available from the Director of Development Services or designee.
- (e) **Any property owner that removes a protected tree for which an approved City tree removal permit was required, but not obtained, and which also meets the criteria for removal listed under section 115-10.3 (e) shall be subject to a \$2,500.00 fine per tree.**

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.6. Tree protection during construction.

- (a) Property owners/developers shall protect, during construction, all protected trees within areas to be disturbed by construction activities as identified on an approved tree removal permit. Tree removal, building, or other development permits may be revoked if protective measures are not used at any time during construction.
- (b) The following shall be prohibited within the tree protection zone (defined in Chapter 100) of designated trees, unless authorized by the Director of Development Services:
 - (1) Parking of heavy equipment, cars and trucks or vehicular traffic;
 - (2) Stockpiling of any materials;
 - (3) Deposition of soil, sediment, or mulch;
 - (4) Grading or grubbing;
 - (5) Excavation or trenching;
 - (6) Burning or burial of debris, within the entire construction site;
 - (7) Dumping oil, gasoline, paint, chemicals, wastewater, or other construction wastes. Storage of potentially hazardous materials shall be in appropriate, non-leaking containers as far away from tree protection zone as possible.

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.7. Minimum Tree Planting Requirements.

- (a) All properties requesting development approval (residential and nonresidential) must meet minimum tree requirements as specified below unless otherwise exempted.
- (b) *Minimum Tree Requirements.*

Lot Area (sq. ft.)	Minimum Number of Trees
Less than 6,000	2
6,000—10,000	3
10,000—16,000	4
16,000—20,000	5
Over 20,000	6

- (c) One of the minimum number of trees required shall be planted as a street tree. Such tree shall be planted prior to occupancy of the structure and shall be a maximum of ten feet inside the front property line.
- (d) All property owners/developers that are requesting building permits/development approvals for individual lots (single family or duplex), or individual lots within an approved subdivision (see section 115-10.4, Submission requirements), must meet minimum tree requirements for each specific lot prior to the issuance of a certificate of occupancy, unless otherwise exempted.
- (e) Proper care and maintenance of recently planted trees and vegetation; i.e., necessary water, fertilizer, and support structures, shall be the property owner's/developer's responsibility and be guaranteed for the duration of an Approved Maintenance Agreement (two years) with the City. Upon sale of an individual lot, the responsibility for care and maintenance of trees is transferred to the new property owner of said individual lot.
- (f) Ongoing maintenance is required and shall consist of mowing, removal of litter and dead plant materials, necessary pruning, watering, fertilizing and replacing frozen or dead plants and trees. In the event vegetation or trees die over time, replacement of vegetation specific to genus and species shall be as originally illustrated on the approved site plan.
- (g) If required, the property owner will replace trees that do not survive during the Approved Maintenance Agreement time period. The replacement tree shall fulfill the duration of the Maintenance Agreement.
- (h) Trees used in fulfillment of the requirements of this section shall be a minimum of two inches DBH and ten feet tall and five feet wide at the time of planting and selected from the approved tree list (section 115-10.7(f)). Approved ornamental and palm trees shall not exceed 25 percent of minimum tree requirements. All required trees shall be in good health, conform to the standards for Florida No. 1 or better, as given in the Grades and Standards for Nursery Plants, State of Florida, Department of Agriculture and Consumer Services as referenced herein. Trees used to meet these minimum tree requirements can also be used in calculations for minimum buffer requirements in chapter 110 of this land development regulation.

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- (i) Trees and shrubs permitted within the City shall include but not be limited to the following:

Ash (*Fraxinus* sp.)
Atlantic White Cedar (*Chamaecyparis thyoides*)
Basswood (*Tilia* sp.)
Black Gum/Tupelo (*Nyssa sylvatica*)
Cabbage Palm (*Sabal palmetto*)
Cedar (tree form only) (*Juniperus* spp.)
Chickasaw Plum (*Prunus angustifolia*)
Crape Myrtle (*Lagerstroemia indica*)
Cypress (*Taxodium* spp.)
Date Palms (*Phoenix* spp.)
Devilwood (*Osmanthus americanus*)
Fringe Tree (*Chionanthus virginicus*)
Elm (*Ulmus* spp.)
Flowering Dogwood (*Cornus florida*)
Hackberry (*Celtis* spp.)
Hickory (*Carya* spp.)
Holly (tree form only) (*Ilex* spp.)
Hornbeam/Blue Beech (*Carpinus caroliniana*)
India Rosewood (*Dalbergia sissoo*)
Jerusalem Thorn (*Parkinsonia aculeata*)
Loblolly Bay (*Gordonia lasianthus*)
Loquat (*Eriobotrya japonica*)
Magnolia (*Magnolia* spp.)
Maple (*Acer* spp.)
Oak (*Quercus* spp.)
Persimmon (*Diospyros virginiana*)
Pine (*Pinus* sp.)
Red Bay (*Persea borbonia*)
Redbud (*Cercis canadensis*)
Red Mulberry (*Morus rubra*)
Southern Wax Myrtle (*Myrica cerifera*)
Sparkleberry (*Vaccinium arboreum*)

Sweetgum (*Liquidambar styraciflua*)
Sycamore (*Platanus* sp.)
Tulip Poplar (*Liriodendron tulipifera*)
Washington Palm (*Washingtonia robusta*)
Willow (*Salix* sp.)

Fruit Trees:

Apple (*Malus* spp.)
Apricot (*Prunus armeniaca*)
Grapefruit (*Citrus paradisi*)
Lemon (*Citrus limon*)
Lime (*Citrus aurantiifolia*)
Orange (*Citrus sinensis* spp.)
Tangerine (*Citrus reticulata*)
Tangelo (*Citrus reticulata* x *paradisi*)
Fig (*Ficus carica*)
LeConte Pear (*Pyrus communis* x LeConte)
Plum (*Prunus salicina*)

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.8. Voluntary planting.

- (a) Nothing in this Chapter shall be construed to prohibit the planting of trees or vegetation except that which is identified on the list of noxious/exotic invasive species (section 115-10.9(a)). Trees and/or other plants indicated on the list of noxious/exotic invasive species shall not be planted in the City. Noxious/exotic invasive species (section 115-10.9(a)) shall be removed from all development sites as a part of the normal site preparation activity.
- (b) Permission from the Director of Development Services shall be required prior to planting, pruning, or removing any tree in public parks, road rights-of-way, or other publicly owned property.

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.9. Removal of noxious/exotic invasive species.

- (a) Specific plant species, which are prohibited within the City, are as follows:
 - (1) *Canopy and understory trees.*
 - a. Australian Pine (*Casuarina* spp.).
 - b. Melaleuca (*Melaleuca quinquenervia*).

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- c. Chinaberry (*Melia azedarach*).
 - d. Ear Tree (*Enterlobium cyclocarpum*).
 - e. Eucalyptus species (*Eucalyptus* spp.).
 - f. Brazilian Pepper (*Schinus terebinthifolius*).
 - g. Paper Mulberry (*Broussonetia papyrifera*).
 - h. Silk Oak (*Grevillea robusta*).
 - i. Empress Tree (*Paulownia tomentosa*).
 - j. Tree of Heaven (*Ailanthus altissima*).
 - k. Chinese Tallow Tree (*Sapium sebiferum*).
 - l. Japanese Tallow Tree (*Sapium japonicum*).
 - m. Camphor (*Cinnamomum camphora*).
 - n. California Privet* (*Ligustrum ovalifolium*).

*both shrub and tree forms.

- o. Cedar Gum (*Eucalyptus gunnii*).

(2) *Shrubs, vines, and ground covers.*

- a. Air potato/air yam (*Dioscorea bulbifera*).
- b. Downy rose myrtle (*Rhodomyrtus tomentosa*).
- c. African Bowstring Hemp (*Sansevieria hyacinthoides*).
- d. Castor Bean Plant (*Ricinus communis*).
- e. Kudzu (*Pueraria lobata* Willd.).

- (b) Removal of plants listed on the list of noxious/exotic invasive species (section 115-10.9(a)) is required as a part of normal site preparation and shall not require a City tree removal permit.

(Ord. No. 16-31, 12-15-2016)

Sec. 115-10.10. Harmful acts.

- (a) No person shall abuse, mutilate or otherwise damage any protected tree, as described herein, or any tree located on public property, including those trees located in the public right-of-way along street frontages within subdivisions.
- (b) However, nothing in this section shall be construed to prevent reasonable and proper trimming of trees on public or private property by authorized persons in accordance with accepted horticultural methods established by the International Society of Arborists (ISA).
- (c) Any person who mutilates a tree in conflict with this section shall be required to remove the tree and will be required to comply with tree replacement provisions per section 115-10.5.

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- (d) No person shall attach any signs in an injurious manner to any tree, nor shall any person cause any substance harmful to trees to come in contact with them, or prevent water or oxygen from reaching their roots by excessive cut and fill activities.

(Ord. No. 16-31, 12-15-2016)