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The City of Miami requires a tree permit “prior to the removal, relocation, root pruning or trimming more than 25% of any tree” and “prior to the removal, relocation, root pruning or trimming of any tree, plant or shrub located in any portion of the City of Miami’s right-of-way.” Chapter 17 of the city’s code was enacted to protect, preserve and restore the tree canopy. It is notable in that this applies to private property owners too. More information can be found on the city’s website:

Miami, FL Code of Ordinances

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Chapter 17 - ENVIRONMENTAL PRESERVATION^[1]

Footnotes:

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City Code cross references—Buildings, ch. 10; landfills and waterfront improvements, ch. 29; noise regulation, ch. 36; sewers and sewage disposal, ch. 49; control of marine pollution, § 50-96 et seq.; planning and zoning, ch. 62; historic and environmental preservation board, § 62-26 et seq.

County Code cross references—Diseased palm trees, ch. 11D; environmental protection, ch. 24; developments in incorporated areas creating county impact, ch. 33A; authority of board of county commissioners to designate areas of critical environmental concern within the unincorporated areas of Dade County, § 33B-2.

State Law reference— *Water resources, F.S. ch. 373; pollutant discharge prevention and control, F.S. ch. 376; environmental land and water management, F.S. ch. 380; pollution of waters, F.S. ch. 387; environmental control, F.S. ch. 403.*

ARTICLE I. - TREE PROTECTION IN GENERAL^[2]

Footnotes:

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Editor's note— *Ord. No. 13670, § 2, adopted March 23, 2017, amended article I in its entirety to read as herein set out. Formerly, article I pertained to similar subject matter, and derived from Ord. No. 13174, § 2, adopted May 13, 2010, and Ord. No. 13274, § 2, adopted June 23, 2011.*

Sec. 17-1. - Intent and purpose.

The intent of this article is to protect, preserve and restore the tree canopy within the City of Miami ("city") by regulating the removal, relocation, pruning, planting and trimming of trees.

The purpose of this article is to assure that the design and construction of all development activity is executed in a manner consistent with the preservation of existing trees to the greatest extent possible.

(Ord. No. 13670, § 2, 3-23-17)

Sec. 17-2. - Definitions.

For the purposes of this article, the following words and phrases shall have the meaning respectively ascribed to them by this section. Definitions for industry terms are based on the American National Standards Institute A-300 Standards for Tree Care Operations - Tree, Shrub, and other Woody Plant Management - Standard Practices (most recent edition; containing all Parts); International Society of Arboriculture Glossary of Arboricultural Terms (most recent edition); and University of Florida Institute of Food and Agricultural Science Bulletin SS-FOR-11 Forest Terminology for Multiple-Use Management.

American National Standards Institute A-300 Tree Care Standards Manual ("ANSI A-300 Standards"): A tree manual which establishes performance standards for the care and maintenance of trees, shrubs, and other woody plants. These are the industry standards for Arboriculture or Urban Forestry used by the industry and many governing agencies as the minimum standards of practice for care and maintenance of trees, shrubs, and other woody plants. These are the generally accepted industry standards for tree care practices written by the Tree Care Industry Association (TCIA) to develop consensus performance standards for trees, shrubs, and other woody plants.

Applicant: A person who is the owner, authorized agent of the owner, or lessee of a property under a written lease authorized to apply for a tree permit.

Arboriculture: The cultivation, management, and study of woody plants, especially trees.

Bark: Protective outer covering of branches and stems outside of the cambium.

Buildable area: The portion of the site exclusive of the required yard areas as defined by the zoning ordinance of the city and its successors.

Cambium: A thin layer of cells under the bark of trees that produces growth of new tissue.

Canopy: The collective branches and foliage of a crown of a tree or group of tree crowns, usually represented as canopy diameter measured across the canopy from drip line to drip line at an average canopy width.

Canopy coverage: The aerial extent of ground within the drip line of the tree, usually represented as square feet of canopy area.

Certificate of approval: A written document permitting tree removal or development activity within those areas identified and established as environmental preservation districts or scenic transportation corridors.

- (1) *Standard certificate of approval*. A written document issued by the preservation officer for tree permits located within an environmental preservation district.
- (2) *Special certificate of approval*. A written document issued by the historic and environmental preservation board ("HEPB") where the board must decide if a major addition, removal or alteration of trees meets the requirements of this article. This certificate will be considered by HEPB in accordance with the procedures for a special certificate of appropriateness in [section 23-6.2](#) of this Code, as amended.

Certified arborist: Also known as a "ISA Certified Arborist." A person who has successfully completed the testing program administered by the International Society of Arboriculture (ISA) to be an ISA Certified Arborist, with a current valid certification number. This person must be trained and knowledgeable in all aspects of arboriculture as relevant to the conditions of trees within the city.

Certified arborist report: A report issued by a certified arborist that, at a minimum, shall contain data for each existing tree in the applicable tree boundary survey as follows: species; DBH as defined herein; height; canopy spread; health condition; opinions regarding current condition; recommended tree activity, if any; and color photographs of trees which shall depict sufficient detail to support the opinion of the certified arborist.

Code compliance: The department responsible for the enforcement of the City Code, as further described in [chapter 2](#), article X.

Code enforcement board: The code enforcement board of the city as appointed pursuant to [chapter 2](#), article X. For purposes of this article, "code enforcement board" shall be synonymous with and have all powers of the special master. The terms may be used interchangeably.

Construction: See "Development activity."

Controlled tree species: Tree species listed in the most recent edition of the Landscape Manual or in section 24-49.9 of the Code of Miami-Dade County, Florida ("Miami-Dade County Code"), which can become invasive in native plant communities when not located in, and cultivated properly, as part of a managed landscape design.

Critical root zone: Also known as a "CRZ." The CRZ is as large or larger than the minimum recommended root area for a tree as stated in the ANSI A-300 Standards for transplanting trees, usually measured and presented as root ball diameter.

Crown: A portion of an individual tree above the main stem, consisting of live branches and foliage.

Crown cover: The percentage of a given area that is covered by the vertical projection of the crowns of trees.

Diameter at breast height ("DBH"): The diameter at breast height of a tree trunk, measured at four and one-half feet above ground level (surface grade or soil grade). In the case of multi-stemmed trees, the DBH is a calculation of the sum of the DBH of each trunk measured at four and one-half feet above ground level.

Dead tree: A tree which is not actively transporting water and nutrients from roots to leaves, and is exhibiting symptoms such as decay, brittleness, rot, non-seasonal defoliation, substantial loss of its branches, or other signs of substantial deterioration.

Department: The department of planning and zoning, which is responsible for review and issuance of tree permits.

Development activity: The carrying out of any building construction that requires issuance of a permit by the city, including without limitation building construction, additions (including but not limited to additions of carports, pools, decks, fences, driveways, and parking lots), modifications, demolition, or making any material alteration to the use or exterior appearance of any structure.

Drip line: The area defined by the outermost circumference of a tree's branches where water drips from and onto the ground.

Environmental preservation districts: Geographical areas, parcels or corridors, which have been or may be identified, are established by the city commission as significant natural or manmade attributes in need of preservation and control because of their educational, economic, ecological and environmental importance to the welfare of the general public and the city as a whole. The city's environmental preservation districts are designated in an atlas kept on file with the department of planning.

Environmentally significant feature: Natural or manmade artifacts, sites or features which possess attributes in need of preservation and control because of their economic, educational or environmental importance to the welfare of the general public and the city as a whole. Environmentally significant features include all trees within the city and specifically designated natural, topographical or geological formations, mangrove areas, natural hammocks, unique scenic vistas or transportation corridors and rare and valuable plant material.

Exotic tree species: A plant species introduced from another country or geographic region outside its natural range, which may become naturalized or invasive, but is not native or indigenous to a region.

Fatally diseased tree: A tree that has been identified with a disease that is not curable by known industry standard pest control treatments or has visible damage from a disease and may include secondary stresses related to a disease. A fatally diseased tree may be considered a high-risk tree.

Florida grades and standards: The standards for determining the quality of nursery stock being grown, sold and/or used in landscape projects in Florida. These are based on the Grades and Standards for Nursery Plants as published by the most current edition of the Florida Department of Agriculture and Consumer Services.

Girdling: Tree abuse in the form of restriction or destruction of the vascular system within a root, stem, or branch of a tree that causes inhibition of the flow of water and nutrients, usually accomplished by removal of bark and cambium around all or most of the circumference of a tree branch or stem.

Grade: The ground level of a subject property.

Hatracking: Also known as "Topping." A form of tree abuse in the form of the reduction of tree size using heading cuts that shorten limbs or branches back to a predetermined crown limit. Hatracking involves indiscriminate cutting back of branches between nodes.

High-risk trees: A tree that is in a location where risks to persons or property exist, including trees that have an identifiable part or parts with a high potential for failing and a high potential to strike a foreseeable target resulting in significant consequences within a short time-frame. The determination of whether a tree is a high-risk tree shall be made by the department upon assessing the supporting risks.

Homestead property: A property that receives a homestead exemption as determined and listed by the Miami-Dade County Property Appraiser's Office. This exemption must be current to be applicable.

Homestead resident: A person or persons living in a residence that receive a homestead exemption as determined and listed by the Miami-Dade County Property Appraiser's Office. This exemption must be current to be applicable.

Internode/internodal: The region of a tree's stem between two successive nodes; length of a branch or stem growing between the nodes.

Intervenor: A person whose interests in the proceeding are adversely affected in a manner greater than those of the general public. A person shall be entitled to the presumption of Intervenor status if the person owns the subject property or owns property abutting the subject property. Furthermore, a person shall be entitled to intervenor status if the person owns property within a 500-foot radius from the subject property but is not the property owner or abutting property owner and has a particular interest in the application that is different in kind and degree than the general public. Abutting shall mean to reach or touch; to touch; to touch at the end or be contiguous with; join at a border or boundary; terminate on; and includes properties across a street or alley. A person recognized by the decision-making body, including the historic and environmental preservation board and the city commission, as an intervenor may make a presentation, call and examine witnesses, conduct cross-examinations of witnesses, introduce exhibits, rebut evidence, and make final arguments in the order as decided by the chair of the body to effectuate orderly and efficient proceedings.

Landscape manual: The Miami-Dade County Landscape Manual, latest edition, which is the official landscape manual issued by Miami-Dade County, Florida, and incorporated herein by reference. The landscape manual, as amended from time to time, is adopted by reference by the city and deemed incorporated by reference as if set forth herein. If a conflict arises between the landscape manual and this article, the latter shall prevail. The landscape manual shall be used in conjunction with section 24-49.9 of the Miami-Dade County Code and said section shall be relied on for any conflicts between the landscape manual and the Miami-Dade County Code for Prohibited Species.

Lion's tailing: A form of tree abuse in which the removal of an excessive number of inner, lateral branches from parent branches results in a tree having the majority of foliage in the outer portions of the canopy.

Main stem (or main trunk): The portion of a tree between ground level and the point of division into major branches.

Native tree species: An indigenous species that is normally found as part of an ecosystem. A species present in a defined area or region of the United States prior to European settlement.

Node: Slightly enlarged portion of a stem where leaves and buds arise.

Owner: Any person, entity, corporation, partnership, trust, holding company, limited liability company or any other legally recognized entity that is the legal, beneficial, or equitable owner of any interest whatsoever in the property. "Owner" shall include any purchaser, assignee, successor, or transferee of any interest whatsoever in the property regarding any provisions of this article.

Palm (or palm tree): Monocotyledonous plant of the Palmacea family. A type of tree that is an unbranched evergreen tree of tropical and warm regions, with a crown of very long feathered or fan-shaped leaves, and typically having old leaf scars forming a regular pattern on the trunk.

Person: As per the definition set forth in [section 1-2](#) of this Code.

Prohibited tree species: A species of tree listed as a prohibited species in the current edition of the Landscape Manual, or in section 24-49.9 of the Miami-Dade County Code, as well as Weeping Fig Trees (*Ficus benjamina*).

Public right-of-way: See "Right-of-way" as defined in [section 55-1](#) of the City Code, as amended.

Registered landscape architect: A person who holds a license to practice landscape architecture in Florida as authorized by F.S. ch. 481.

Replacement trees: Also known as "mitigation tree." Trees that are proposed to be used as replacement for trees being removed from a property.

Root: The part of a tree, usually underground, that anchors the tree to the ground and also absorbs and conducts water and nutrients to all parts of the tree.

Root pruning: The cutting of roots to limit their vertical or lateral growth, the process of pre-cutting roots behind the line of a planned excavation to prevent tearing and splintering of remaining roots, any removal of roots one inch in diameter or greater, and/or the removal of more than ten percent of a tree's root system. Root pruning of more than ten percent of a tree's root system requires a tree permit.

Scenic transportation corridor: Those roadways identified by the state or by the city commission resolution as having a unique landscape, an expansive tree canopy and/or unique landscape features that is of substantial environmental or scenic importance to residents and visitors.

Shrub: A woody, perennial plant separated from a tree by its lower mature height (generally under 20 feet), and showing the lack of a well-defined main trunk, often multi-stemmed.

Site plan: A comprehensive plan drawn to scale indicating site elevations, roadways and location of all relevant site improvements including structures, parking, other paved areas, ingress and egress drives, landscaped open space and signage.

Sound nursery practices: The practices or procedures of landscape nurseries that meet or exceed the Florida Grades and Standards.

Special master: The person(s) appointed pursuant to [chapter 2](#), article X. For purposes of this article, the special master shall be synonymous with and have all powers of the code enforcement board. The terms may be used interchangeably.

Specimen tree: A tree that is equal to or larger than 18 inches DBH. Trees that do not qualify as specimen trees are palms, non-native *Ficus* species, or any non-native fruit tree cultivated as a grove tree for commercial production of fruit.

Spiking: A form of tree abuse in which there is the hammering or affixing of metal or other material into a tree to harm the tree or lower its commercial value, or any damage to the trunk of a tree caused by use of climbing spikes.

Spread: The average diameter of the crown. The average diameter of the tree canopy or crown as measured across the canopy in at least two directions from drip line to drip line of farthest reaching branches.

Stem(s): The principal axis or wood structure of a plant from which buds, shoots, foliage, and branches develop.

Tree: A woody perennial plant, including palms, usually having only one dominant trunk and a well-defined stem or stems carrying a more or less definite crown, usually having a mature height greater than 16 feet. A tree regulated under this chapter must have a minimum size of 12 feet overall height with a DBH of two inches or larger. A palm regulated under this chapter must have a minimum height of 16 feet overall with a DBH of six inches or larger.

Tree abuse: Action that damages a tree and/or parts of a tree. Generally, any tree activity beyond or against those described in the ANSI A-300 Standards. Examples of tree abuse include but are not limited to hatracking, spiking, lions tailing, tree removal (without a permit), pruning more than 25 percent of a tree canopy in one annual growing season, root pruning that destabilizes a tree, girdling, damaging and/or removing sections of bark, and damaging and/or removing sections of cambium.

Tree activity: Work that will affect a tree on a property which includes tree removal, tree pruning more than 25 percent, and root pruning more than ten percent or trimming of a root more than one inch in diameter.

Tree boundary survey: A survey such as a topographic survey that establishes property lines and corners of a parcel of land and also locates natural features such as trees and streams as well as man-made features such as buildings, fences, improvements, land contours, easements, and utilities. Tree boundary surveys shall be prepared by a professional land surveyor.

Tree permit: A permit which is required for any tree activity.

Tree protection barriers: Barriers, fences, or barricades that are placed around existing trees to provide protection during construction on a subject property. Examples are contained in the tree protection specifications and tree protection details as described in the Landscape Manual and ANSI A-300 Standards.

Tree protection bond: A monetary bond that guarantees specific trees be protected and will not be harmed by the construction project and, if harmed, the party will reimburse for the loss.

Tree protection zone ("TPZ"): An area defined by a certified arborist surrounding the trunk of a tree to protect roots and soil within at least the CRZ area. This area is necessary to protect tree health and stability. The TPZ is an area within which certain activities are prohibited or restricted, especially during

construction or development activity.



Tree pruning: Also known as "Tree trimming." The selective cutting of tree parts done to remove branches or parts of branches from a tree's crown.

Tree removal: The act of cutting down, destroying, moving, relocating, or effectively destroying through damaging, any tree situated on any real property or public property within the city.

Tree value: The appraised monetary value for a tree as calculated by an ISA certified arborist who is specially trained and experienced as a tree and landscape appraiser. Appraisals shall utilize the trunk formula method within the replacement cost approach of valuation as described in the most recent edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Tree value may be used to determine reasonable mitigation requirements for specimen trees removed without a permit and/or specimen trees effectively destroyed during construction, including trees permitted to be preserved or remain on site that are subsequently effectively destroyed, and may be used as an alternative to the replacement tree table for mitigation requirements for specimen trees being permitted for removal, as approved by the department.

Trunk: The main or central stem of a tree.

Vigor: The capacity of a tree to grow and resist stress; growing in a healthy condition.

(Ord. No. 13670, § 2, 3-23-17; Ord. No. 13697, § 2, 7-27-17; Ord. No. 13971, § 2, 2-25-21)

Sec. 17-3. - Applicability.

- (a) The provisions of this article shall apply to all public or private property within the city, unless expressly exempted by law.
- (b) All tree activity as defined in this chapter require a tree permit as described herein.
- (c) Any tree removal on a public right-of-way or on property owned by the city shall require a permit from the resilience and public works department, unless it is deemed in writing by the director of the department or his/her designee that such permit will be an undue burden for the city and is not in the best interest of the public health, safety and welfare of the city.
- (d) All trees located within environmental preservation districts shall also be subject to the requirements of article 2 of this chapter.
- (e) All trees located within natural forest communities shall also be subject to the requirements of article 3 of [chapter 24](#) of the Miami-Dade County Code, as amended.
- (f) All mangrove trees and any tree located upon land which is wetlands as defined in F.S. § 373.019, as amended from time to time, shall also be subject to the permitting requirements of article 2 of [chapter 24](#) of the Miami-Dade County Code, as amended.

(Ord. No. 13670, § 2, 3-23-17; Ord. No. 13792, § 1, 10-11-18)

Sec. 17-4. - Tree permit applications, requirements, review, and fees.

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(a) *Permit, when required.*

- (1) No person, agent or representative thereof, directly or indirectly, shall engage in tree activity on any property described in [section 17-3](#) of this article without first obtaining a tree permit and unless exempted by [section 17-11](#) of this article.
- (2) A tree permit is required for tree pruning of more than 25 percent of the canopy, crown, or living foliage of a tree or other pruning not in accordance with the ANSI A-300 Standards shall be allowed upon presentation of a letter to the city, to be validated by a certified arborist, with justification as to why the ANSI A-300 Standards are not applicable.
- (3) Pruning of the canopy, crown or living foliage of a tree, in strict accordance with ANSI A-300 Standards shall be allowed without a permit. A certified arborist letter or other documentation may be required.
- (4) Any removal of roots one inch in diameter or greater and/or the removal of more than ten percent of a tree's root system shall require a tree pruning permit. No root pruning shall be allowed beyond the aforementioned limits anywhere in the city without a tree pruning permit except for the pruning of roots when essential for any repairs or improvements performed by or for the department of resilience and public works or capital improvements.
- (5) No building permit for any work that has the potential to affect trees, including new construction, additions, carports, pools, decks, fences, driveways, parking lots, tennis courts, demolition, or similar work, shall be issued by the building department unless the zoning department has determined that a tree permit or tree pruning permit is not required or that a valid tree permit or tree pruning permit has been issued in accordance with this article.

(b) *Application requirements.* The property owner or authorized agent shall submit a tree permit application to the department on the department's tree permit application form. A tree permit application shall include those supporting documents and plans as required by the department to provide adequate description and information to verify the intended tree activity, site conditions, proposed construction and work specifications in order to issue a tree permit.

(c) *Plan requirements.* Plans submitted with a tree permit application shall comply with the following:

- (1) Commercial properties. Plans for a tree permit in conjunction with new construction, including but not limited to, demolition, additions, pools and decks shall include the following:
 - a. A tree boundary survey, drawn to scale, identifying the tree species, location, and listing the height, spread and diameter of all existing trees. The tree boundary survey

shall illustrate the location of all existing structures, the location of any overhead and/or underground utilities and the right-of-way limits, edges of pavement, including all trees within the right-of-way. This survey shall be prepared by a professional land surveyor, licensed in the state.

- b. A tree disposition plan drawn to scale identifying and listing all existing trees and specifying the condition of each tree, the TPZ radius and whether said trees are to remain, to be removed and/or to be relocated. The tree disposition plan shall also contain the value of specimen trees that are listed to remain and/or to be relocated. The valuation of trees shall be appraised using the Council of Tree and Landscape Appraisers Guide for Plant Appraisal, latest edition. The tree disposition plan shall superimpose all proposed new construction, the new locations of existing trees to be relocated on site over the tree survey plan information, and an accurate depiction of the CRZ and canopy of the trees to remain and/or be relocated. For applications involving the construction of a new building(s), the tree disposition plan shall be prepared by and bear the seal of a landscape architect currently licensed in the state, or by persons authorized by F.S. ch. 481, as amended, to prepare landscape plans or drawings.
 - c. A tree protection plan depicting all trees to remain and/or be relocated on site with a depiction of the tree's TPZ.
 - d. When applicable, an assessment on all existing trees with tree specifications. For trees and/or palms proposed for relocation, tree relocation specifications in accordance with ANSI A300 Standards shall be provided to the department. Additional information such as the TPZ, CRZ, tree protection and/or tree pruning recommendations may be required for trees to remain and/or be relocated. The assessment shall be prepared by an ISA Certified Arborist.
- (2) Single-family or duplex properties. Plans for a tree permit in conjunction with new construction, including but not limited to demolition, additions, pools, and decks shall include the following:
- a. A site plan drawn to scale, or existing property survey prepared by the owner or the owner's representative, identifying the location of the tree, the species and listing the height, spread and diameter of all existing trees. Said site plan may be limited to the immediate area of the proposed work.
 - b. A tree disposition plan drawn to scale, prepared by the owner or the owner's representative, or such plan incorporated onto an existing property survey, listing all existing trees and specifying the condition of each tree and whether said trees are to remain, to be removed and/or to be relocated. This plan shall also illustrate the

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location of all existing structures and/or all proposed new construction, the location of any overhead and/or underground utilities and the new locations of existing trees to be relocated on site.

- c. When applicable, an assessment on all existing trees with tree specifications. For trees and/or palms proposed for relocation, tree relocation specifications in accordance with ANSI A300 Standards shall be provided to the department. Additional information such as the TPZ, CRZ, tree protection and/or tree pruning recommendations may be required for trees to remain and/or be relocated. The assessment shall be prepared by an ISA Certified Arborist.
- (3) Plans for a tree permit unrelated to construction shall be drawn to scale using a site plan or existing property survey prepared by the owner or owner's authorized representative.
- (4) All applications shall have a tree replacement plan/landscape plan drawn to scale that illustrates all proposed new construction, new locations of relocated trees, and new replacement tree locations that complies with the requirements of [section 17-6](#) of this Code, entitled "Tree replacement." For applications involving the construction of a new building(s), the tree replacement plan shall be prepared by and bear the seal of a landscape architect currently licensed in the state, or by persons authorized by F.S. ch. 481, as amended, to prepare landscape plans or drawings. Tree replacement plan/landscape plan submitted for a one-family or two-family dwellings (homestead property) may be in the form of a site plan drawn to scale prepared by the owner or the owner's representative.
- (5) Anytime construction or development is to be undertaken, a tree protection bond equal to the value of the specimen tree(s) to remain and/or to be relocated shall be posted, except for properties which have homestead exemption, pursuant to F.S. § 196.075, and show proof thereof. The bond shall remain in effect for one year after the final certificate of occupancy is issued. The city manager, after recommendation by the department and approval as to legal form by the office of the city attorney, may accept a covenant or other equivalent alternative to the tree protection bond requirement for construction or development of affordable housing projects which have been procured and/or funded by the city. All applicants requesting a covenant in lieu of a tree protection bond of an affordable housing project shall be bound by the terms of the covenant and shall record said covenant in the public records of Miami-Dade County after final acceptance and execution by the city.
- (d) *Review of application.* Upon receipt of a completed tree permit application, the department shall review said application for compliance with the regulations as set forth in this article. Such review may include a field inspection of the site and referral of the application to other departments or agencies as necessary. The department shall take a reasonable amount of

time to review and respond to applicants regarding tree permit applications, generally completing the initial review within 15 business days and thereafter providing the intended decision notice upon final approval the tree permit application.

- (e) *Notice.* Within 48 hours of issuing the intended decision for a tree permit, the department shall notify the applicant and post a notice of the intended decision on or adjacent to the subject property in a location where it is visible to the general public. The posting shall provide a general description and location of the proposed tree activity contained in the tree permit. The intended decision shall also be sent to the homeowners' associations registered with the neighborhood enhancement team ("NET") in that area.
- (f) *Issuance of permit.* If no appeal, in accordance with [section 17-8](#) of this article, is received within ten calendar days of the issuance of the intended decision, the tree permit shall be issued. The property owner shall ensure that the tree permit is displayed until the authorized work is completed.
- (g) *Fees.* Fees shall be as established pursuant to [section 10-4](#) of this Code, as amended, "Building permit fee schedule." Applications from government agencies for tree removals in areas dedicated to public use may, at the discretion of the city commission, be exempted from application fees and permit fees by resolution.
- (h) *Final inspection.* No later than six months following the completion of the authorized work, the applicant shall schedule a final inspection with the department for verification and acceptance of the final authorized work.

(Ord. No. 13670, § 2, 3-23-17; Ord. No. 13792, § 1, 10-11-18; Ord. No. 13873, § 2, 11-21-19)

Sec. 17-5. - Criteria and conditions for tree permits.

- (a) *Criteria for tree permits.* In determining whether a tree permit should be issued, the department will consider the following criteria:
 - (1) Whether the tree is located in the buildable area or yard area where a structure or improvement may be placed and the tree unreasonably restricts the permitted use of the property. Trees located in the property frontage (within the 15-foot setback), are not considered located within the buildable area or yard. Ingress and egress to garages are not considered buildable or yard areas. Trees on a public right-of-way shall not be considered for removal because they restrict ingress or egress to the garages or parking on the site, except if there is no other reasonable access to and from the structure or to the property from the public right-of-way.
 - (2) Whether the tree is in danger of falling; interferes with utility service determined by a trained and experienced vegetation management or line clearance employee and/or person; creates unsafe vision clearance within a sight triangle or other legal right-of way; or materially impairs the structural integrity of an existing structure.

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- (3) Whether the tree is deemed a high-risk tree, fatally diseased or dead. The department may require supporting documentation confirming that the tree is a high-risk tree, fatally diseased or dead cannot be abated by other means (i.e. pruning, trimming, fruit removal, removal of hazardous photographs of the tree(s) showing the conditions, signs or symptoms of the tree; any laboratory analysis or relevant scientific literature; and any other potential supporting documentation.
- (4) Whether the tree is a prohibited tree species. The department may require photographs of the tree(s) to support identification of the tree species. Prohibited tree species may be removed without the need for a replacement tree.
- (5) Whether the tree creates a health hazard; interferes with native tree species; or creates a negative impact on natural land features such as rock outcroppings, sink holes or other geological, historical or archeological features.
- (6) Any other relevant criteria the department deems appropriate to consider in order to make a determination.
- (b) *Conditions for issuance of a tree permit.* Any or all of the following conditions may be required by the department prior to issuance of a tree permit:
- (1) The applicant may be required to redesign the project to preserve specimen tree(s) or any other tree determined by the department to be of substantial value because of its species, size, age, form and/or historical significance, and to provide an alternate plan that includes the adequate preservation of said tree(s) and design alterations within the scope and intent of the initially proposed plan.
- (2) Where practical, specimen trees or any other tree determined by the department to be of substantial value because of its species, size, age, form and/or historical significance, proposed for removal, shall be relocated on or off-site within the commission district of the subject property. The applicant shall adhere to acceptable tree relocation standards and specifications. The department may require a certified arborist to monitor the root pruning and tree relocation preparation efforts on site and to provide documentation certifying that the work was accomplished according to acceptable standards and specifications.
- (3) If it is impractical to relocate said tree(s) either on or off-site, because of age, type or size, the applicant shall be required to replace all trees permitted to be removed in accordance with the tree replacement requirements in [section 17-6](#).
- (4) The department may require that the applicant provide a written report from a certified arborist before making any determinations in conjunction with this article. The department may also require monitoring by a certified arborist during construction and/or tree activity requiring a tree permit to assure tree preservation.

(Ord. No. 13670, § 2, 3-23-17)

Sec. 17-6. - Tree replacement.

(a) *Tree replacement chart.* The tree replacement chart 17.6.1.1 below, shall be used to determine the total number and size of trees that shall be planted as replacement trees for all trees permitted to be removed. The replacement trees are based on the diameter in inches (DBH) of the trees to be removed. To determine the required replacement trees, calculate the total sum in inches of the diameters of all trees to be removed. This sum will result in one single number in inches that represents the combined total of the diameters of all trees to be removed. Diameter measurement shall be rounded up to the nearest inch.

CHART 17.6.1.1 TREE REPLACEMENT CHART

 EXPAND

Total diameter of tree(s) to be removed (sum of inches at DBH)	Total number of replacement trees required (where each Replacement Tree is a minimum of 2" DBH x 6' spread in Canopy x 12' in height)	OR	Total number of replacement trees required (where each Replacement Tree is a minimum of 4" DBH x 8' spread in Canopy x 16' in height)	Contribution to Tree Trust Fund
2"—3"	1	or	0	\$1,000.00
4"—6"	2	or	1	\$2,000.00
7"—12"	4	or	2	\$4,000.00
13"—18"	6	or	3	\$6,000.00
19"—24"	8	or	4	\$8,000.00
25"—30"	10	or	5	\$10,000.00
31"—36"	12	or	6	\$12,000.00
37"—42"	14	or	7	\$14,000.00
43"—48"	16	or	8	\$16,000.00
49"—60"	20	or	10	\$20,000.00

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- (1) If the sum of the diameter of trees to be removed exceeds a total of 60 inches, the additional inches shall be added cumulatively from the top of the chart, down to the bottom of the chart, to calculate the number of trees required as replacement trees.
 - (2) Up to 30 percent of the two-inch DBH replacement tree requirement may be met by native species with a minimum height of ten feet and a minimum DBH of one and one-half inches at time of planting.
 - (3) The removal of a palm shall be replaced with two palms at 16 feet overall height with a six-inch DBH or one tree at 12 feet overall height with a two-inch DBH. Native palms of a 14-foot minimum overall height and minimum DBH of three inches at time of planting shall count as a required two-inch DBH replacement tree on the basis of two palms per required tree. No more than 30 percent of the required replacement trees shall be palms.
- (b) *Tree species.* Tree(s) installed as replacement trees shall be of a native or non-invasive species and shall be planted at grade or ground level according to ANSI A300 best management practices manual, incorporated herein by reference. When more than ten trees are installed as replacement trees, a diversity of species shall be required as per chart 17.6.2.1 tree species diversity chart, below.

CHART 17.6.2.1 TREE SPECIES DIVERSITY

EXPAND

Required Number of Trees	Required Minimum Number of Species
11—20	2
21—50	4
51 or greater	6

(c) *Tree replacement alternatives.*

- (1) Replacement trees for homestead properties may comply with the following alternatives:
 - a. The removal of a non-specimen/non-native tree, a controlled tree species or a palm species shall be replaced with a native species at a one-to-one ratio upon written confirmation from the department. Replacement shall be of minimum replacement size at two inches DBH and 12 feet overall height.
 - b. Trees authorized for removal from lots that meet the minimum lot tree requirements, as described in Article 9 of the Miami 21 Code, shall be replaced at a one-to-one ratio,

- c. Homestead properties that remove trees without a proper tree permit must comply with the standard replacement tree quantities and requirements and may not avail themselves of these alternatives.
 - d. Hardship exemption. A person who meet either of the following criteria may be able to apply for a waiver, full or partial, of the requirements for tree replacement on homestead property as set forth in this section and subsection [17-10\(a\)\(2\)](#) of the City Code:
 - 1. Persons who qualify for the senior citizen exemption pursuant to F.S. § 196.075.
 - 2. Persons whose total household income is below 80 percent of the area median income ("AMI") of Miami-Dade County as determined by the United States Department of Housing and Urban Development ("HUD") annually.
 - e. Tree gifting program. The gifting of trees by the city to property owners for the purpose of increasing the city's tree canopy, whenever possible, shall be conducted by the city manager or his designee in a manner that is in accordance with applicable laws.
- (2) Prohibited tree species may be removed after obtaining a tree permit. Replacement trees are not required for the removal of any prohibited tree species as listed in current edition of the Miami-Dade County Prohibited Species List, except Lofty Fig (*Ficus altissima*) and Banyan Tree (*Ficus benghalensis*) which are subject to the provisions of this article. No fees will be assessed for tree removal of prohibited tree species.
- (3) The city manager or designee, after a recommendation of the department, may adjust the requirement of replacement trees for affordable housing developments that are procured by the city and/or funded by the city, regardless of the source of funds.
- (d) *Tree quality.* After issuance of a tree permit, replacement trees in accordance with this section shall conform to, or exceed, the minimum standards for Florida Number One as provided in the most current edition of "Florida Grades and Standards for Nursery Plants, Part I and II," prepared by the state department of agriculture and consumer services, and incorporated herein by reference. Trees shall be planted according to sound nursery practices as illustrated in the landscape manual.
- (e) *Off-site replacement trees.* If the total number of replacement trees cannot be reasonably planted on the subject property, the applicant may enter into a written agreement with the city, as approved by the department, to plant the excess replacement trees on public property within the city commission district of the subject property. If the department confirms and verifies that replacement trees cannot be planted within the city commission district of the subject property due to capacity issues, the department may approve the planting of the

excess replacement trees in other parts of the city. An alternative to off-site replacement is provided in subsection (f), relating to the contribution to the tree trust fund. Applicants may do both to the extent that they should proffer to do so.

- (f) *Tree trust fund.* If the department determines that an applicant is not able to comply with the planting of replacement trees either on-site or off-site as required by this section, then the applicant shall make a financial contribution into the city's tree trust fund prior to issuance of the tree permit as follows:
- (1) *Non-homestead properties.* The contribution shall be equal to \$1,000.00 for each two-inch DBH tree required in accordance with Chart 17.6.1.1.
 - (2) *Homestead properties.* The contribution shall be equal to \$500.00 for each two-inch DBH tree required in accordance with Chart 17.6.1.1 per calendar year. If additional tree permits are issued in the same calendar year, the subsequent contribution shall be equal to \$1,000.00 for each two-inch DBH tree required in accordance with Chart 17.6.1.1.
 - (3) *Hardship exemption.* A person who meets either of the following criteria may be able to apply for a waiver, full or partial, of the requirements for the tree trust fund on homestead property as set forth in this section and subsection [17-10\(a\)\(2\)](#) of the City Code:
 - a. Persons who qualify for the senior citizen exemption pursuant to F.S. § 196.075.
 - b. Persons whose total household income is below 80 percent of the AMI of Miami-Dade County as determined by the HUD annually.
- (g) *Completion.* The replacement tree process shall be completed prior to the issuance of a certificate of occupancy or temporary certificate of occupancy. Moreover, the approval of a tree permit is contingent on any requirements set forth in subsections (a) through (f) above.
- (h) *Maintenance of relocated and replacement trees.* Trees that are relocated or replaced must be maintained in a healthy growing condition and guaranteed for a period of at least one year unless otherwise authorized by the department in writing.

(Ord. No. 13670, § 2, 3-23-17; Ord. No. 13697, § 2, 7-27-17)

Sec. 17-7. - Tree protection.

- (a) *Tree protection during construction.* Trees shall be protected during construction activity as determined by the department through the use of protective barriers in accordance with the landscape manual. Trees that are to remain shall be clearly identified with tags. Tree protection barriers shall be maintained around the trees in accordance with the tree protection plan approved by the department.

Prior to and during demolition, development, or construction, including installation of irrigation systems or any other underground installations, protective barriers shall be placed around the perimeter of each tree's TPZ and shall remain in place in order to prevent the destruction or damaging

of roots, stems or crowns of such trees. The barriers shall remain in place and intact until approved landscape operations begin; however, barriers may be removed temporarily to accommodate construction needs, provided that the manner and purpose for such temporary removal will not harm the trees. The trees shall be properly irrigated throughout the building process. Trees damaged during construction shall be subject to the provisions of [section 17-9](#).

- (b) *Other tree requirements.* Property owners shall protect the trees designated for preservation in the approved tree permit from chemical poisoning, excavation, grade changes, and any other potential tree abuse to at least the following minimum standards:
- (1) *Utility line trenches.* Utility line trenches and/or directional borings shall be routed away from the trees to an area outside the TPZ to the maximum extent possible.
 - (2) *Parking on site during construction or development activities.* No parking, vehicle maintenance, storage of construction materials or debris, or cleaning of equipment shall take place within areas marked for preservation specifically including, but not limited to, within the TPZ of any individual trees or cluster of trees.

(Ord. No. 13670, § 2, 3-23-17)

Sec. 17-8. - Appeals, appellate fees.

- (a) *Appeals to the historic and environmental preservation board ("HEPB").* The property owner, the applicant, or any aggrieved party having standing under state law, may appeal to the HEPB any decision of the department on matters relating to applications for tree permits, except for tree permits granted to the departments of public works or capital improvements program, by filing a written notice of appeal to the preservation officer, as established in [chapter 23](#) of this Code, within ten calendar days after the date of the intended decision. The notice of appeal shall include the decision appealed from and the reasons or grounds for the appeal. A person whose interests in the proceeding are adversely affected in a manner greater than those of the general public may request intervenor status as defined in this chapter. HEPB shall hear and consider all facts material to the appeal. HEPB may affirm, modify or reverse the decision of the department.

All appeals to the HEPB in accordance with this article shall be accompanied by a fee of \$315.00, except for appeals initiated by abutting property owners, as defined in the Miami 21 Code, for which a tree permit is sought. Appeals by a nonprofit corporation dedicated to conservation and protection of the natural and physical environment, or appeals by a homeowners association, as defined by F.S. ch. 720, as amended, which has one member who owns property within 500 feet of the subject property shall pay a reduced appeal fee of \$157.50.

- (b) *Appeals to the city commission.* The property owner, the applicant, the department, or any aggrieved party having standing under state law, may appeal to the city commission any decision of the HEPB on matters relating to applications for tree permits by filing a written

notice of appeal with the department of hearing boards within 15 calendar days after the date of the decision. The property owner, the applicant, or any aggrieved party having standing under state law may appeal to the city commission any decision by the department on matters relating to tree permit applications for the departments of public works or capital improvements program or to their contractors, by filing a written notice of appeal with the department of hearing boards, within 15 calendar days after the date of the intended decision. The notice of appeal shall include the decision appealed from and the reasons or grounds for the appeal. The city commission shall conduct a hearing de novo as a body of original jurisdiction, upon any appeal and/or review from an appealable decision under the terms of this article, as amended. A person whose interests in the proceeding are adversely affected in a manner greater than those of the general public may request intervenor status as defined in this chapter. New evidence or materials may be received by the city commission where such evidence or materials are pertinent to a determination of the appeal. The city commission may hear the testimony of witnesses and/or any other evidence offered by any person aggrieved or by any officer, board or agency of the city affected thereby or by any interested party having an interest in the appeal under state law and may, in conformity with this article and other applicable laws, rules and regulations, render its decision. The city commission shall hear and consider all facts material to the appeal and may affirm, modify or reverse, in whole or in part, with or without conditions, HEPB's decision, or may grant or deny the appeal of the tree permit issued to the departments of public works and capital improvements.

All appeals to the city commission in accordance with this section shall be accompanied by a fee of \$525.00, plus \$4.50 per mailed notice to the adjacent owners within a 500-foot radius. A certified list of said adjacent owners shall be provided with all appeals. However, no fees shall be assessed for appeals initiated by abutting property owners, as defined by the Miami 21 Code, for which a tree permit is sought. Appeals by a nonprofit corporation dedicated to conservation and protection of the natural and physical environment, or appeals by a homeowners association, as that term is defined by F.S. ch. 720, as amended, which has one member who owns property within 500 feet of the subject property shall pay a reduced appeal fee of \$262.50.

The decision of the city commission shall constitute final administrative review, and no petition for rehearing or reconsideration, shall be considered by the city. Appeals from decisions of the city commission may be made to the courts as provided by the Florida Rules of Appellate Procedure.

(c) *Notice.* All public hearings on appeals shall be noticed as follows. Notice of the time and place of the public hearing shall be mailed at least ten calendar days in advance of the hearing to the owner of the subject property and the owners of the adjacent properties. At least ten calendar days in advance of the hearing, a sign, in compliance with the provisions of [section 62-19](#) of this Code, shall be posted on the subject property.

(d) *No tree removal permitted during an appeal.* Upon timely submission of an appeal made

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pursuant to the requirements of this section, new construction and removal of any trees which could be affected by the subject appeal is prohibited, pending final disposition of the appeal. A violation of this subsection will automatically result in an additional \$500.00 fine payable to the city's tree trust fund for each separate violation of this section.

(Ord. No. 13670, § 2, 3-23-17; Ord. No. 13971, § 2, 2-25-21)

Sec. 17-9. - Enforcement.

- (a) *Jurisdiction.* Code Compliance shall have jurisdiction for the proper and effective enforcement of this article, under [chapter 2](#), article X entitled code enforcement. Code compliance shall have the right to inspect subject properties in accordance with the approved tree permit and the provisions of this article. The department shall work with code compliance to ensure effective enforcement of this article. Upon notification by code compliance and/or the department, the building official may immediately issue a stop work order for any work that contributes to the violation of this article. A stop work order shall remain in effect until the violation has been corrected, including payment of all fines.
- (b) *Individual enforcement.* Each tree removed, relocated or illegally pruned without a tree permit shall constitute a separate and distinct violation and shall be the subject of individual enforcement.

(Ord. No. 13670, § 2, 3-23-17)

Sec. 17-10. - Penalties, remedies cumulative.

- (a) *Fine.* Any property that violates this article shall be subject to the following penalties:
- (1) Non-homestead properties. For every tree that has been the subject of tree activity without a tree permit or the subject of tree abuse, a fine of \$1,000.00 per tree shall be imposed.
 - (2) Homestead properties. For every tree that has been the subject of tree activity without a tree permit or the subject of tree abuse, a fine of \$500.00 per tree shall be imposed.
 - (3) Said fines are appealable to the code enforcement board pursuant to [chapter 2](#), article X of this Code.
 - (4) Any property that has had a previous fine for a violation of this article within the past five years may receive a fine as stated in this section and shall also be automatically referred to the code enforcement board pursuant to [chapter 2](#), article X of this Code and subject to enhanced penalties of \$5,000.00 per day per violation pursuant to F.S. § 162.09.
 - (5) Nothing in this article shall prohibit the city from enforcing this article by any other means. The enforcement procedures outlined herein are cumulative to all others and shall not be deemed to be prerequisites to filing suit for the enforcement of any section of this article.
 - (6) Hardship exemption. A person who meets either of the following criteria may be able to

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apply for a waiver, full or partial, of the requirements of this section:



- a. Persons who qualify for the senior citizen exemption pursuant to F.S. § 196.075.
 - b. Persons whose total household income is below 80 percent of the AMI of Miami-Dade County as determined by the HUD annually.
- (b) *Tree replacement required.* The planting of replacement trees shall be required, in addition to the monetary fines assessed pursuant to this article. The number of trees required as replacement for each tree that was removed without a permit is provided in Chart 17.10.2.1, the tree replacement chart, for trees removed without a permit, below. If the total number of trees required as replacement trees cannot be reasonably planted on the subject property, the applicant may contribute to the city's tree trust fund in the amount provided in Chart 17.10.2.1.

CHART 17.10.2.1. TREE REPLACEMENT CHART FOR TREES REMOVED WITHOUT A PERMIT

EXPAND

Diameter (DBH of each tree removed without a permit)	Total number of Replacement Trees required (where each Replacement Tree is a minimum of 2" DBH x 6' spread in Canopy x 12' in height)	OR	Total number of Replacement Trees required (where each Replacement Tree is a minimum of 4" DBH x 8' spread in Canopy x 16' in height)	OR	Contribution into Tree Trust Fund
2"—3"	2	or	1	or	\$2,000.00
4"—6"	4	or	2	or	\$4,000.00
7"—12"	8	or	4	or	\$8,000.00
13"—18"	12	or	6	or	\$12,000.00
19"—24"	16	or	8	or	\$16,000.00
25"—30"	20	or	10	or	\$20,000.00
31"—36"	24	or	12	or	\$24,000.00
37"—42"	28	or	14	or	\$28,000.00
43"—48"	32	or	16	or	\$32,000.00

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49"—60"	40	or	20	or	\$40,000.00

If the sum of the diameter of trees to be removed exceeds a total of 60 inches, the additional inches shall be added cumulatively from the top of the chart, down to the bottom of the chart, to calculate the number of trees required as replacement trees. If the exact DBH cannot be determined for trees removed without a permit, established industry practices shall be used to determine an estimated DBH, as approved by the department.

- (c) *High-risk trees.* Trees that are high-risk trees, as a result of tree abuse, are subject to the replacement tree requirements of subsection (b). High-risk trees that result from any other reason are not subject to replacement trees.
- (d) *Tree viability after project completion.* If the department determines that any tree is not viable, alive and growing one year after all associated tree activity on the property is completed, the department shall require that said tree be replaced with the same tree species and size which was originally planted or relocated, as per the approved tree permit.
- (e) *Withholding of a new building permit.* Any tree activity in violation of this article shall constitute grounds for withholding new building permits directly related to said tree activity until the violation has been corrected, including payment of all fines and planting of all required replacement trees as pursuant to this section.

Alternatively, in order to obtain the new building permit, the person in violation may post a payment and performance bond pursuant to F.S. § 255.05, as amended, naming the city as obligee. The bond shall be in the amount of ten percent of the construction cost or ten percent of the appraised value of the property, if no construction exists. The bond will remain in place until the violation has been corrected, pursuant to this section. In the event a bond is not feasible, the city may accept an irrevocable, unconditional letter of credit, in the previously stated percentages, naming the city as payee.

- (f) *Withholding of a certificate of occupancy.* The department shall not approve the zoning inspection required for a temporary or final certificate of occupancy until all tree permits have been finalized and violations of this article have been corrected, including the payment of all

Code of Ordinances fines and the planting of all replacement trees required as mitigation, pursuant to this section.

- (g) *Remedies cumulative.* The remedies provided in this section shall be cumulative to all remedies provided by law and/or equity, and the election of one shall not preclude the other.
- (h) *Costs and fees.* In the event the city institutes any civil action to enforce the provisions of this article in a court of competent jurisdiction, if the city succeeds as prevailing party, it shall be entitled to recover the fines assessed pursuant to the violation(s), the cost of replacement trees required as mitigation, the costs associated with the investigation and prosecution including reasonable attorney fees, and any equitable and/or legal remedies assigned by the court.

(Ord. No. 13670, § 2, 3-23-17; Ord. No. 13697, § 2, 7-27-17)

Sec. 17-11. - Exemptions.

The following are exempt from the provisions of this article:

- (1) Any tree growing in a botanical garden, or a licensed plant or tree nursery business.
- (2) When the city manager or designee determines, in writing, that tree permitting requirements will impede private or public work to restore city order after a declared state of emergency by the city commission.
- (3) The immediate removal of any tree that presents a life safety issue, by demonstrating to the city, following the review and recommendation of the department, which may require photographic proof revised and/or other supporting documentation, to help determine the condition of the tree prior to its removal.
- (4) Nothing in this article shall be construed to prevent the pruning or trimming of trees where necessary for proper landscape maintenance and safety, provided that the pruning or trimming of trees is done in accordance with ANSI A-300 Tree Care Standards and the guidelines illustrated in the landscape manual.

(Ord. No. 13670, § 2, 3-23-17)

Secs. 17-12—17-25. - Reserved.

ARTICLE II. - ENVIRONMENTAL PRESERVATION DISTRICTS^[3]

Footnotes:

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Editor's note— Ord. No. 13174, § 2, adopted May 13, 2010, changed the title of article II from "Districts" to "Environmental preservation districts."

Sec. 17-26. - Definitions.

Code of Ordinances For the purposes of this article, definitions are found in [section 17-2](#).



(Code 1967, § 64-1; Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-1; Ord. No. 13174, § 2, 5-13-10; Ord. No. 13971, § 2, 2-25-21)

Sec. 17-27. - Intent of article.



The intent of this article shall be as follows:

- (1) To preserve and protect trees and other significant environmental features within the city.
- (2) To require that the design and construction of all development activity be executed in a manner consistent with the preservation of trees and other significant environmental features to the greatest extent possible.
- (3) To provide guidelines and review procedures for controlling development activity which may alter, destroy or be detrimental to existing trees, significant environmental features and scenic areas.
- (4) To provide the framework and legal mechanism for publicly identifying and preserving environmentally significant areas or sites.

(Code 1967, § 64-2; Code 1980, § 17-2; Ord. No. 13174, § 2, 5-13-10)

Sec. 17-28. - Applicability of article.



The terms and provisions of this article shall apply to real property as follows:

All property located within a designated environmental preservation district, including scenic transportation corridors.

(Code 1967, § 64-3; Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-3; Ord. No. 13174, § 2, 5-13-10)

Sec. 17-29. - Historic and environmental preservation board.



The historic and environmental preservation board (hereinafter referred to as HEPB or the board) as established under section 62-186 shall be responsible for maintaining a record of unique environmentally significant lands or sites within the city. The board shall serve as the quasi-judicial instrument for granting or denying certificates of approval for tree removal and development activity within those areas identified and established as environmental preservation districts under the terms and provisions of this article.

(Ord. No. 9427, § 1(A), 5-27-82; Code 1980, § 17-4; Ord. No. 13174, § 2, 5-13-10)

Sec. 17-30. - Preservation officer.



The preservation officer, as provided in section 62-191 shall be responsible to assist HEPB and to carry out the following duties:

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- (1) Serve as secretary to the board. The appointee shall attend all meetings of the board and maintain a record of the proceedings of the board, showing its action on each application. The appointee shall schedule and provide notification of board meetings to applicants and other department and agency representatives.
 - (2) Upon receipt of a proper application for tree removal or development activity within the designated environmental preservation districts, review such application, shall include a field check of the site and referral to other departments or agencies as necessary to determine any adverse effect upon the general public welfare and determine whether a standard or special certificate of approval is required.
 - (3) Maintain and update an official map delineating environmental preservation districts and a photographic documentation of all official designated sites.
 - (4) Work with other city departments and community environmental groups as required to protect and reserve the natural environment through public education and encouraging sound environmental policies.
 - (5) Evaluate applications for standard certificates of approval and render a decision based upon the standards and conditions for tree removal and the review standards for tree removal and development activity within environmental preservation districts.
 - (6) Ensure that notice of the application for a special certificate of approval is given as required in [section 17-39](#).
 - (7) Prepare summary reports of all decisions on certificate of approval applications. The report shall briefly summarize the conditions and criteria for tree removal and the decision of the board or preservation officer.

(Ord. No. 9427, § 1(B), 5-27-82; Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-5; Ord. No. 13174, § 2, 5-13-10)

Sec. 17-31. - Environmental preservation districts.

- (a) *Designation generally; intent.* Certain geographical areas or sites may be designated as environmental preservation districts by action of the city commission, recognizing the need for preservation and protection of such areas because of their educational, economic, environmental or ecological importance to the welfare of the general public and the city. Environmental preservation districts are intended to provide for preservation and protection of trees and other significant environmental and landscape features and to encourage design and development activity which is sensitive to the natural landscape character of the site. Sites with significant trees and landscape materials may be selected as environmental preservation districts because they provide important environmental functions for the welfare of the community, which include the following: stabilizing the soil, preventing erosion and excessive runoff; giving shade and cooling the land; providing protection from forceful winds;

using their leaf surfaces to dilute gaseous pollutants and trap and filter out ash, dust and pollen in the air; absorbing a high percentage of carbon dioxide and returning oxygen to the air; alleviating noise pollution; increasing the value of the property; and adding to the natural scenic beauty of the city. All regulations and review procedures provided for environmental preservation districts are intended to protect the significant environmental features against needless destruction and to present guidelines which will lead to the continuance and enhancement of those features, while at the same time recognizing individual rights to develop property which are not prejudicial to the public interest.

- (b) *Natural or manmade environmental features.* The following natural or manmade environmental features may be designated as environmental preservation districts, when one or more such features are located in a geographical area or lot:
- (1) Clusters of trees with extensive tree canopy, natural hammock areas and mangrove areas. Land areas which include significant environmental features, outstanding characteristics or meet other professional criteria may be designated as environmental preservation districts by the historic and environmental preservation board.
 - (2) Exposed geological formations, such as natural rock outcroppings, caves, sinkholes and significant natural topography of the Coastal Atlantic Ridge.
 - (3) Scenic transportation corridors—those roadway areas which have a unique landscape character and an extensive tree canopy and are of substantial environmental importance to the residents of the city as well as to visitors. Dimensions and extent of scenic transportation corridors shall be determined for each specific area so designated, based upon an analysis of the corridor by qualified professional staff of the appropriate city departments. The boundaries of the scenic transportation corridors may be determined by the following:
 - a. The extent of roadway right-of-way area.
 - b. All established yard areas fronting on the transportation corridor.
 - c. Significant natural features, such as trees, or geological features which are not within the right-of-way or street yard area but are of value as a part of the scene.
 - d. Principal natural landscape or manmade elements which form the visual boundary or enclosing space of the corridor.
 - e. Unique botanical features, such as rare, exotic and valuable trees or plant life or examples of excellent landscape design.
- (c) *Procedure for designation.*
- (1) Areas or sites to be considered as environmental preservation districts may be recommended to HEPB by private individuals and organizations (after providing sufficient evidence that the resource qualifies under the provisions of this Code), all city departments, HEPB and the city commission.

Code of Ordinances (2) All areas to be considered must be evaluated by the HEPB with the appropriate recommendations conveyed to the city commission.

- (3) A letter or invitation shall be delivered to the owners of all property within the boundaries of the proposed environmental preservation district, with a full explanation of the reasons for the environmental significance of the property, the effect of the proposed classification and the process by which environmental preservation districts are officially designated. The owners will be invited to appear at a public hearing before HEPB to discuss the matter. Should there be more than 50 property owners within the proposed scenic transportation corridor, a notice published in a newspaper of general circulation at least ten days prior to the hearing, stating the aforementioned information and including the date, time, place and reason for the HEPB hearing shall be considered sufficient notice. Following the decision of HEPB, the property may then be recommended by the board to the city commission for designation as an environmental preservation district.
- (4) The areas recommended by the HEPB and approved by the city commission are established as environmental preservation districts. These sites or areas are then added to the official map delineating environmental preservation districts on file with the department.
- (5) A person whose interests in the proceeding are adversely affected in a manner greater than those of the general public may request intervenor status as defined in this chapter at the hearing(s).

(d) *Effects of designation.*

- (1) Once an area or site is officially designated as an environmental preservation district, all development activity or removal of trees within that area must be reviewed by the preservation officer, and a certificate of approval, standard or special, must be granted under the provisions of [section 17-32](#) before a tree removal permit or a building permit will be issued by the department.
- (2) When the city commission approves the designation of an area or site as an environmental preservation district, the regulations and review requirements for both the existing transect and the preservation district shall apply.

(Code 1967, § 64-6; Ord. No. 8798, §§ 1, 2, 5-19-78; Ord. No. 9427, § 1(C), 5-27-82; Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-6; Ord. No. 13174, § 2, 5-13-10; Ord. No. 13971, § 2, 2-25-21)

Sec. 17-32. - Removal of trees not located in environmental preservation districts.

The removal of trees not located in environmental preservation districts shall follow the procedures set forth in article I entitled "Tree protection in general."

(Code 1967, § 64-7; Ord. No. 8798, §§ 1, 2, 5-19-78; Ord. No. 9427, § 1(C), 5-27-82; Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-7; Ord. No. 13174, § 2, 5-13-10)

Sec. 17-33. - Removal of trees and development activity within environmental preservation districts.

- (a) *Certificate of approval required.* No person, agent or representative thereof, directly or indirectly, shall cut down, destroy, move or effectively destroy through damaging any tree or other environmentally significant feature within an environmental preservation district without first obtaining a certificate of approval and must abide by tree removal as set for in article I. No person, agent or representative thereof shall commence any development activity within an area visible from a public way within an environmental preservation district without first obtaining a certificate of approval, standard and special, as hereinafter provided:
- (1) Standard certificates of approval may be issued by the preservation officer, without review and approval by the historic and environmental preservation board, for the following classifications of applications:
 - a. Applications for development activity where all existing trees are to be preserved or relocated on site.
 - b. Applications for removal of trees which are diseased, injured, in danger of falling, or interfere with utility service, create unsafe vision clearance, or conflict with other ordinances or regulations.
 - c. Application for removal of trees which are listed in [section 17-37](#).
 - d. Applications involving tree removal and additions or modifications to existing building, except where such addition exceeds 50 percent of the existing lot coverage.
 - e. Applications involving tree removal and site improvements for existing buildings such as but not limited to fences, walls, patios, driveways, pools, etc.
 - (2) Special certificates of approval require the approval of the historic and environmental preservation board, and include the following classifications of applications:
 - a. Applications for new development involving removal of existing trees from the site or alteration of other environmentally significant features.
 - b. Applications for development activity or tree removal not listed in subsection (a)(1) as eligible for a standard certificate of approval.
 - c. Applications referred to the historic and environmental preservation board on appeal from decisions of the preservation officer, or from the general public as described in [section 17-8](#).
- (b) *Applications.* All applications for a certificate of approval within environmental preservation districts shall be initially made to the preservation officer. Applications shall include the following and shall remain on file with the city:

Code of Ordinances (1) An official application form, including all requested information, signed by the property owner.

(2) Refer to subsection [17-4\(b\)](#), application requirements, subsections (1), (2), (3), (4), and (5) for the required documentation that shall accompany applications.

(3) Signature of a planning, building and zoning official indicating compliance with applicable zoning regulations or specifying variances necessary for permitting.

(c) *Application review.* The preservation officer shall review the application, which shall include a site inspection or referral to other departments, and determine whether the type and extent of the proposed work falls within the jurisdiction of a standard certificate of approval or a special certificate of approval.

(1) Where an application is eligible for a standard certificate of approval, the preservation officer shall, within 15 days of receipt of a completed application, issue such standard certificate of approval, with or without conditions, or deny such standard certificate of approval with specified reasons therefore.

(2) Where the nature and extent of proposed work requires a special certificate of approval, the historic and environmental preservation board shall hold a public hearing and take action within 45 days of receipt of a completed application. A person whose interests in the proceeding are adversely affected in a manner greater than those of the general public may request intervenor status as defined in this chapter. The board shall either authorize a special certificate of approval, with or without conditions, or deny such special certificate of approval with specified reasons therefore.

(d) *Permits.* No permit for development activity or tree removal within an environmental preservation district shall be issued by the building department until a certificate of approval has been issued pursuant to this article. Such permit applications shall be approved by the preservation officer to verify conformance with the certificate of approval. Tree removal permits authorized by a standard certificate of approval shall be subject to the ten-day delayed effective date and posting requirements of subsection [17-4\(d\)](#).

(e) *Changes in approved work.* Any change in work proposed subsequent to issuance of a certificate of approval shall be reviewed by the preservation officer to determine whether such change would materially affect the certificate of approval. If so, such change shall require a new certificate of approval pursuant to all standards and procedures in this article.

(Code 1967, § 64-8; Ord. No. 8798, §§ 1, 2, 5-19-78; Ord. No. 9427, § 1(C), (D), 5-27-82; Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-8; Ord. No. 13174, § 2, 5-13-10; Ord. No. 13971, § 2, 2-25-21)

Sec. 17-34. - Criteria and conditions for tree removal. ⋮

(a) *Criteria for removal.* No permit shall be issued for tree removal from the site, unless one of the following conditions exists:

(1) The tree is located in the buildable area or yard area where a structure or improvement

may be placed and unreasonably restricts the permitted use of the property. Trees located in the property frontage (within the setback) shall not be considered to be located within the building area or yard. Ingress and egress to garages are not considered the buildable area or yard.

- (2) Trees on the public right-of-way shall not be considered for removal as a result of restriction to or from ingress or egress to the garages or parking on the site provided however, that if there is no other reasonable access to and from the structure or to the property from the public right-of-way, this requirement shall be waived by the director of code enforcement when it relates to private property and/or by the director of public works when it relates to the public right-of-way.
 - (3) The tree is diseased, injured or in danger of falling, interferes with utility service, creates unsafe vision clearance or conflicts with other provisions of this Code or other ordinances or regulations.
 - (4) The tree is an exotic tree species and will be replaced with a native tree species to promote good forestry practices; creates a health hazard; interferes with native tree species or creates a negative impact on natural land features such as rock outcroppings, sink holes or other geological, historical or archaeological features.
 - (5) It is in the general welfare of the public that the tree be removed for a reason other than set forth above.
- (b) *Conditions for relocation and replacement.* As a condition to the granting of a tree removal permit, any or all of the following may be required:
- (1) The applicant may be required to redesign the project to preserve specimen tree(s) or any other tree determined by the historic and environmental preservation board to be of substantial value due to its species, size, age, form and/or historical significance, provide an alternative plan, when feasible, which shall include the preservation of such tree(s) and design alterations within the scope and intent of the initially proposed plan. The applicant shall provide sufficient information, to include a tree survey drawn to scale that illustrates all existing site conditions and a tree disposition plan drawn to scale that superimposes all proposed new construction including all overhead and underground utilities and the new locations of trees over the tree survey plan information. The historic and environmental preservation board will review and analyze the aforementioned information, in order to determine the appropriate course of action.
 - (2) Where practical, specimen trees, or any other trees determined by the department to be of substantial value due to its species, size, age, form and/or historical significance, that is proposed for removal shall be relocated on or off-site. The applicant shall adhere to acceptable tree relocation specifications.
 - (3) If it is impractical to relocate and replant such trees of substantial value, either on the site or off the site, the tree may either be removed, or the applicant may be required to

demonstrate a "good faith" effort to redesign the project to protect and preserve the trees. The applicant shall be required to replace all trees permitted to be removed in accordance with the tree replacement requirements contained in [section 17-1](#).

- (4) The historic and environmental preservation board may require that the applicant provide a written report from a certified arborist before making any determinations in conjunction with this section. The historic and environmental preservation board may also require monitoring by a certified arborist during construction to assure tree preservation.
- (5) In determining the required preservation, relocation, or replacement of trees, the following factors shall be considered:
 - a. Existing tree coverage on the site and in the immediate surrounding area.
 - b. Number of trees to be removed on the entire site.
 - c. The type, size and condition of the tree(s) to be removed.
 - d. The feasibility of relocating the particular tree or trees.
 - e. Topography and drainage of the site.
 - f. The extent to which the trees contribute to the aesthetic, economic and environmental integrity of the surrounding area.
 - g. The nature of the existing and intended use of the property.
- (6) Tree replacement. Tree replacement shall be as directed in subsection [17-6\(a\)](#) which includes tree replacement chart 17.6.1.1 as well as tree species diversity chart 17.6.2.1 in subsection [17-6\(b\)](#), tree species.

(Code 1967, § 64-9; Ord. No. 8798, §§ 1, 2, 5-19-78; Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-9; Ord. No. 13174, § 2, 5-13-10)

Sec. 17-35. - Tree protection and survival.

- (a) During construction, all reasonable steps necessary to prevent the destruction or damaging of trees shall be taken. Trees destroyed or receiving major damage must be replaced by trees of equal environmental value as specified in [section 17-6](#) before occupancy or use unless approval for their removal has been granted under permit.
 - (1) Trees that are to remain shall be clearly identified with tags.
 - (2) During construction, protective barriers shall be placed with a radius of ten feet around the trees to remain in accordance with the landscape manual, unless a certified arborist otherwise determines in writing that a smaller or larger protected area is acceptable for each tree, or an alternative tree protection method is recommended.
 - (3) During demolition and/or development, including installation of irrigation systems or any other underground installations, protective barriers shall be placed around each tree and shall remain in order to prevent the destruction or damage to roots, stems or crowns of

such trees. The barriers shall remain in place and intact until such time as approved landscape operations begin; however, barriers may be removed temporarily to accommodate construction needs, provided the manner and purpose for such temporary removal will not harm the trees. The trees shall be properly irrigated throughout the building process. Trees damaged during construction shall be subject to the provisions of [section 17-9](#).

- (4) If at all practical, underground utility lines, curbs and other above grade structures should be routed around existing trees to the outside of the drip line of the tree. In the event that this is not feasible, a tunnel made by a power-driven soil auger may be placed under the tree for installation of utility lines, or a trench passing by the side of the tree may be used for construction of curbing or to accommodate the installation of utility lines. If a trench is used, care should be taken that as few roots as possible are cut, that the cuts are made cleanly, and that the root ends are painted with a wound dressing of asphalt base paint and immediately covered with soil.
 - (5) During construction, unless otherwise authorized by the tree removal permit, no excess soil, additional fill, equipment, liquids, or construction debris shall be placed within the drip line of any tree that is required to be preserved in its present location unless the addition of excess soil or fill is required in order to comply with either the flood criteria requirements contained in chapter 11C of the Code of Metropolitan Dade County, Florida, and/or federal flood regulations in high flood hazard locations.
 - (6) Unless otherwise authorized by the tree removal permit, no soil is to be removed from within the drip line of any tree that is to remain at its original location.
 - (7) No wires or utility service attachments, other than those of a protective nature, shall be attached to any tree.
 - (8) Subsequent to construction or the satisfactory stabilizing of a tree, all protective devices shall be removed. The owner of the project on which the tree is located, the applicant for a tree permit or the individual performing physical moving of a tree, shall be fully liable and responsible for removal of the devices.
- (b) All trees transplanted pursuant to this article shall be maintained alive and healthy at the site of the transplant for a period six months following completion of construction work on the site. Any of such trees which die within such six months shall be replaced by the applicant. The code enforcement department shall retain jurisdiction to ensure compliance with this section.
- (c) Tree pruning/trimming. The pruning or trimming of any tree shall be done in accordance with ANSI A-300 Tree Care Standards and the guidelines illustrated in the landscape manual, incorporated by reference herein. The practice known as "hatracking" or "topping" is not permitted and shall be considered a violation of this article. The historic and environmental

preservation board may require that a certified arborist monitor the trimming and provide the department with photographic documentation following the trimming. Any other tree abuse, or activity that can effectively destroy a tree, shall also be considered a violation of this article.

(Code 1967, § 64-10; Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-10; Ord. No. 13174, § 2, 5-13-10)

Sec. 17-36. - Environmental preservation review standards for tree removal and development activity.

The following standards shall be used by the preservation officer or historic and environmental preservation board in reviewing all site plans, building plans and applications for tree removal within those areas designated as environmental preservation districts. These standards are intended to provide a frame of reference for the applicant, as well as to provide a basis for reviewing plans and proposals. These standards are not to be regarded as inflexible and are not intended to discourage innovation or creativity. Development should:

- (1) Preserve the natural environmental character of all sites, insofar as practical, by minimizing removal of trees or other significant environmental features.
- (2) Preserve or enhance existing topography and natural land features wherever possible.
- (3) Use only those signs for identification of principal use. Signs should be of a size, shape and color which are compatible with the surrounding environment. The size of the signs should bear a direct relationship to the rate of speed of passersby, not exceeding a maximum size necessary for recognition.
- (4) Provide visual screening of all parking areas, service areas or storage areas by using landscaping and building materials which are compatible with the surrounding landscape character.
- (5) Maintain the continuity of landscape material and spacing characteristic of the surrounding area or scenic corridor. If the development occurs along a designated scenic corridor, the principal natural landscape or manmade elements which form the visual boundaries or enclosing space of the corridor shall be preserved, insofar as possible.
- (6) Consider the impact of public and private improvements upon the ecological needs of the area. Roadway improvements within scenic corridors and other unique areas should not disrupt or distract from the existing natural environment.

(Code 1967, § 64-11; Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-11; Ord. No. 13174, § 2, 5-13-10)

Sec. 17-37. - Exceptions and exemptions from article requirements.

- (a) During the period of an emergency, such as hurricane, tropical storm, flood or other act of God, or in the event that any tree shall be determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety of the community, or when the tree prevents a person from the use or enjoyment of the property; or when removal of

the tree will prevent further damage and its removal is required, the applicant shall provide photographs and any other supporting materials which will allow a sound judgment to be made. Upon such a finding, the requirements of this article may be waived by the city manager.

- (b) Prohibited trees shall be exempt from the replacement requirements of this article, but shall require a tree removal permit. Prohibited trees are those tree species that are detrimental to native plants, native wildlife, ecosystems, and human health, safety or welfare. Prohibited tree species includes those designated in the Miami-Dade County Landscape Manual, incorporated by reference herein, and the Ficus Benjamina/Weeping Fig. These species must be removed from sites upon site development.
- (c) Nothing in this article shall be construed to prevent the pruning of trees where necessary for proper landscape maintenance and safety provided that the pruning and trimming of trees is done in accordance with ANSI A-300 Tree Care Standards and the guidelines illustrated in the landscape manual.

(Code 1967, § 64-12; Ord. No. 8798, §§ 1, 2, 5-19-78; Ord. No. 9427, § 1(D), 5-27-82; Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-12; Ord. No. 13174, § 2, 5-13-10; Ord. No. 13274, § 2, 6-23-11)

Sec. 17-38. - Removal of trees from public lands.

No tree shall be removed from any public land, public park or public right-of-way, except in accordance with article III of this chapter.

(Code 1967, § 64-13; Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-13; Ord. No. 13174, § 2, 5-13-10)

Sec. 17-39. - Public notice of applications for special certificates of approval.

Public notice is required for all applications for a special certificate of approval in environmental preservation districts. The type and manner of notice will be as follows:

- (1) *Posted notice.* Property being considered for a permit under this article shall be posted with a sign at least ten days in advance of the public hearing. The sign shall measure at least three square feet in area, shall be of a color and shape distinguishable from the surrounding landscape, and shall contain substantially the following language:

A public hearing involving approval of a permit for tree removal or development on this property will be held by the historic and environmental preservation board of the City of Miami.

Description of activity:

Place of hearing:

Time:

Code of Ordinances For additional information call 311.



The sign shall be erected in full view of the public on each street side or side nearest a street of the property being considered for such permit.

- (2) *Mailed notice.* Notice of the time and place of the public hearing by the historic and environmental preservation board shall be sent at least ten days in advance of the hearing, by mail, to the owner of the subject property and the owners of the adjacent property and other departments or agencies deemed appropriate by the board.
- (3) *Published notice.* The published notice shall contain a description of the activity and the time and place of the hearing. Publication shall be made in the following:
 - a. A daily newspaper of general circulation in the city;
 - b. A daily newspaper of general circulation in the city, devoted primarily to reporting of financial, business, industrial and legal information; and
 - c. A newspaper devoted primarily to reporting information of interest in an area or locality of the city.

Such publications shall be made not less than ten days in advance of the public hearing and shall be prepared and paid for by the city. These publications shall be sent to the NET office for distribution to the registered homeowners' associations.

(Code 1967, § 64-14; Ord. No. 9427, § 1(C), 5-27-82; Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-14; Ord. No. 13174, § 2, 5-13-10)

Sec. 17-40. - Appeals.



- (a) *Appeals to the historic and environmental preservation board.* Any citizen may appeal any decision of the department of planning, and the code enforcement department of any term or provision of this article to HEPB, by filing, within ten days after the date of the initial decision, a written notice of appeal with the city manager, with a copy to the city clerk and the preservation officer, which shall set forth precisely the decision appealed from and the reasons or grounds for the appeal. Each appeal shall be accompanied by the applicable fee. The enforcement agency shall immediately issue a stop work order for any work which could be affected by the subject appeal, pending final disposition of the appeal. A person whose interests in the proceeding are adversely affected in a manner greater than those of the general public may request intervenor status as defined in this chapter. The historic and environmental preservation board shall hear at a public hearing all facts material to the appeal and render a decision within 45 days of the filing of such appeal. The historic and environmental preservation board may affirm, modify or reverse the decision appealed from, provided that the board shall not take any action which conflicts with or nullifies any of the provisions of this article.

(b) *Appeals to the city commission.* Any citizen may appeal any decision of the historic and environmental preservation board as it relates to this article, to the city commission by filing within ten days after the date of the decision, a written notice of appeal with the city manager, with a copy to the city clerk and the preservation officer, which shall set forth precisely the decision appealed from and the reasons and grounds for the appeal. Each appeal shall be accompanied by the applicable fee. The enforcement agency shall immediately issue a stop work order for any work which could be affected by the subject of the appeal, pending final disposition of the appeal. A person whose interests in the proceeding are adversely affected in a manner greater than those of the general public may request intervenor status as defined in this chapter. The city commission shall hear and consider all facts material to the appeal and render a decision within 45 days of the filing of such appeal. The city commission may affirm, modify or reverse the board's decision. The decision of the city commission shall constitute final administrative review, and no petition for rehearing or reconsideration shall be considered.

(Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-15; Ord. No. 13174, § 2, 5-13-10; Ord. No. 13971, § 2, 2-25-21)

Sec. 17-41. - Penalties, remedies cumulative.

Any person, or agent thereof, violating the provisions of any section of this article shall upon conviction, be subject to the penalties in this chapter or any other penalties as provided by law. The removal, relocation or destruction of each tree for which a tree removal permit is required without a proper permit on the job site shall constitute a separate offense under this article.

(Code 1967, § 64-15; Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-16; Ord. No. 13174, § 2, 5-13-10)

Sec. 17-42. - Civil remedies.

In addition to any other remedies provided by law and by this article, the enforcement agency shall have the following judicial remedies available for violations of this article or any permit condition promulgated under this article:

- (1) The enforcement agency may institute a civil action in a court of competent jurisdiction to establish liability and recover liquidated damages for each violation in an amount of not more than \$5,000.00 per offense. Each tree unlawfully removed under the provisions of this article shall constitute a separate offense hereunder.
- (2) The enforcement agency may institute a civil action in a court relief to enforce compliance with this article to enjoin any violation hereof and to seek injunctive relief to prevent irreparable injury to the trees or properties encompassed by the term of this article.

(Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-17; Ord. No. 13142, § 7, 2-11-10; Ord. No. 13174, § 2, 5-13-10)

Sec. 17-43. - Fees.

Code of Ordinances (a) Standard certificate of approval: Minimum \$26.00 plus \$5.00 for every tree to be removed, relocated, or newly planted.

(b) Special certificate of approval: \$26.00.

(c) All applications for permits for the removal of trees shall be accompanied by a fee, as provided for under [section 10-4](#), as amended, "Building permit fee schedule."

(d) All appeals shall be accompanied by a fee of \$300.00, except that no fee shall be charged for such appeals initiated by agencies of the city or by an owner in fact of a property adjacent to the subject property or by a nonprofit corporation dedicated to conservation and protection of the natural and physical environment.

(Code 1967, § 64-16; Ord. No. 8798, §§ 1, 2, 5-19-78; Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-18; Ord. No. 13142, § 7, 2-11-10; Ord. No. 13174, § 2, 5-13-10)

Sec. 17-44. - Enforcement.

(a) The department of code enforcement, its inspectors and the planning department shall have concurrent jurisdiction for the proper and effective enforcement of this article under [chapter 2](#), article X entitled "Code enforcement."

(b) The enforcement agency shall immediately issue an order to cease and desist any work being carried out in violation of this article or any permit conditions promulgated under this article. Upon notice of such violation, no further work shall take place until appropriate remedial action is instituted, as determined by the enforcement agency.

(c) In cases where tree removal is carried out without the necessary permit under the terms and conditions of this article, the property owner shall be required to make application for an after-the-fact tree removal permit and certificate of approval, if applicable. The appropriate reviewing agency may grant an after-the-fact certificate of approval or tree removal permit only if it finds that the same application would have rightfully been approved prior to removal of the tree(s), and that each tree destroyed is to be replaced by trees of equal or greater value. Such replacement trees shall be located on the subject site wherever practical, or they may be required to be located on public property. Such replacement shall be assured by a performance bond or by a cash contribution to a tree planting fund established by the city. If the conditions for an after-the-fact tree removal permit are not fulfilled, the case shall be referred to the law department for appropriate action under sections [17-41](#) and [17-42](#).

(Code 1967, § 64-17; Ord. No. 8798, §§ 1, 2, 5-19-78; Ord. No. 9769, § 1, 12-15-83; Code 1980, § 17-19; Ord. No. 13174, § 2, 5-13-10)

Sec. 17-45. - Fine.

Code of Ordinances

Any person, or agent thereof, who removes a tree without a tree removal permit, shall be fined a fine of up to \$1,000.00 per violation, per day for the first violation, and shall be fined up to \$5,000.00 per tree for every repeat violation of this article, or a greater penalty as provided by law, and in addition undergo the tree replacement process in the form of replacement trees pursuant to article I. Each tree removed without a tree removal permit shall constitute a separate and distinct violation, subject to a separate fine and tree replacement pursuant to article I.

(Ord. No. 13174, § 2, 5-13-10)

Sec. 17-46. - Tree replacement required.

In addition to the monetary fine established above, the planting of replacement trees shall be required. The number of trees required as replacement for each tree that was removed without a permit shall be based upon chart 17.10.2.1, Tree replacement chart for trees removed without a permit. If the total number of trees required as replacement trees cannot be reasonably planted on the subject property, the applicant may contribute into the city's tree trust fund in an amount based upon chart 17.10.2.1 for the balance number of replacement trees that cannot be planted on the subject property.

(Ord. No. 13174, § 2, 5-13-10)

Sec. 17-47. - Tree replacement for trees removed without a permit.

Refer to the tree replacement chart 17.10.2.1 in article I.

(Ord. No. 13174, § 2, 5-13-10)

Sec. 17-48. - Withholding of a new building permit.

The removal of any tree in violation of this article shall constitute grounds for withholding new building permits directly related to said tree removal until the violation has been corrected, including the payment of all fines and the planting of all trees required as replacement trees pursuant to this section. Alternatively, in order to obtain the new building permit, the person in violation may post a payment and performance bond pursuant to F.S. § 255.05 naming the city as obligee. The bond shall be in the amount of ten percent of the construction cost or ten percent of the appraised value of the property, if no construction exists. The bond will be maintained in place until the violation has been corrected, pursuant to this section. In the event a bond is not feasible, the city may accept an irrevocable, unconditional letter of credit, in the previously stated percentages, naming the city as payee. This section shall not apply to complete applications submitted to the city on the effective date of Ord. No. 13174.

(Ord. No. 13174, § 2, 5-13-10)

Sec. 17-49. - Withholding of a certificate of occupancy.

The department shall not approve the zoning inspection required for a temporary or final certificate of occupancy until all violations of this article have been corrected, including the payment of all fines and the planting of all trees required as replacement tree mitigation, pursuant to this section.

(Ord. No. 13174, § 2, 5-13-10)

Sec. 17-50. - Remedies cumulative.

The remedies provided in this section shall be cumulative to all remedies provided by law and/or equity, and the election of one shall not preclude the other.

(Ord. No. 13174, § 2, 5-13-10)

Secs. 17-51—17-70. - Reserved.

ARTICLE III. - TREES AND SHRUBS ON PUBLIC PROPERTY^[4]

Footnotes:

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City Code cross references—Parks and recreation, ch. 38; streets and sidewalks, ch. 54; street grades and lines for shade trees, § 54-51.

Sec. 17-71. - Authority of director of public works.

The director of public works or his/her duly authorized representative, under the city manager, shall have the general management and supervision of all trees, shrubs and plants embraced by this article.

(Code 1967, § 59-1; Code 1980, § 59-21; Ord. No. 13676, § 2, 4-27-17)

Sec. 17-72. - Permits—Required to prune, plant or remove from public land.

It shall be unlawful for any person to trim or prune any tree, shrub, or plant or to remove any tree, shrub, or plant from any dedicated street, alley, highway, public right-of-way, or easement, public land lying between property lines on either side of a public street, highway, alley, public parking strip, public street, sidewalk or divider, public median strip or planting strip or other land or public place owned by the city without first applying for and obtaining a permit from the director of public works or authorized representative.

(Code 1967, § 59-2; Code 1980, § 59-22; Ord. No. 13087, § 2, 9-10-09; Ord. No. 13676, § 2, 4-27-17)

Case Law reference— In suit against city for injuries sustained from electric shock incurred while pruning trees on a city right-of-way for a private individual, where neither the injured party nor his/her employer had acquired a permit as required and where both the injured party and his/her employer

Code of Ordinances knew a permit was required, the injured party was a trespasser as to the city, to whom the city owed no greater duty than to avoid wilful and wanton conduct and, upon discovery of his/her presence, to give warning of known dangers not open to ordinary observation. Norris v. City of Miami, 367 So. 2d 1038.

Sec. 17-73. - Same—Required to break, injure, etc., in public highway or park.

No person shall, without a written permit from the director of public works, break, incline or in any way deface any living tree, shrub or vine in a public highway or park, or cut, disturb or interfere in any way with the roots of any tree, shrub or vine in a public highway or park.

(Code 1967, § 59-3; Code 1980, § 59-23)

Sec. 17-74. - Same—Issuance; charges.

The director of public works shall issue a written permit required by the two preceding sections to any applicant, without charge, when it is determined that the action proposed is necessary or desirable and not contrary to any city master plan for trees, shrubs or plants, and will be performed satisfactorily.

(Code 1967, § 59-4; Code 1980, § 59-24; Ord. No. 13087, § 2, 9-10-09)

Sec. 17-75. - Same—Contents.

A permit issued as provided in the preceding section shall contain the location approved, the action allowed to be performed, the duration of the permit and any other requirements deemed necessary or desirable by the director of public works to regulate the cutting, trimming or removal of any trees, shrubs or plants within the city.

(Code 1967, § 59-5; Code 1980, § 59-25)

Sec. 17-76. - Placing guards during construction or repair of buildings.

In the erection or repairing of any building or structure, the owner thereof shall place such guards around all nearby trees, shrubs or vines in a public highway or park as shall effectively prevent injury to them.

(Code 1967, § 59-6; Code 1980, § 59-26)

Sec. 17-77. - Placing injurious substances on or near roots.

No person shall throw or allow to be thrown any saltwater, oil or injurious substance upon any public highway or park where such material may enter the ground at the roots of any public tree, shrub or vine.

(Code 1967, § 59-7; Code 1980, § 59-27)

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