

CHAPTER 72. - LANDSCAPING AND TREE PROTECTION^[3]

Footnotes:

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Editor's note— Ord. No. 2010-02, § 1, adopted Jan. 5, 2010, amended Ch. 72 in its entirety to read as herein set out. Former Ch. 72, §§ 72.01—72.19, pertained to similar subject matter, and derived from Ord. No. 84-15, § 1, adopted July 3, 1984; Ord. No. 87-35, § 1, adopted May 5, 1987; Ord. No. 89-16, § 1, adopted April 4, 1989; Ord. No. 94-08, §§ 2—9, adopted July 19, 1994; Ord. No. 2003-08, §§ 1, 2, adopted Jan. 21, 2003; Ord. No. 2007-09, §§ 1—4, adopted May 15, 2007.

ARTICLE I. - IN GENERAL

Sec. 72.01. - Title.

This chapter shall constitute and may be cited as the "Landscaping and Tree Protection Ordinance" of the City of Vero Beach.

(Ord. No. 2010-02, § 1, 1-5-2010)

Sec. 72.02. - Intent.

The intent of this chapter is to promote the public health, safety, and general welfare through the preservation, protection, and enhancement of the natural beauty, environment, and property values in the city by regulation of the maintenance, removal, planting, and preservation of landscaping, trees, palms, and natural areas in compliance with the policies of the comprehensive plan.

In addition to aesthetic enhancements, the tree and palm preservation and landscaping requirements of this chapter will contribute to moderation of stormwater runoff, erosion reduction, natural screening of development, energy conservation by providing shade and evaporative cooling through transpiration, air pollution and carbon dioxide level reduction, noise reduction, and habitat for birds, small mammals, and other wildlife.

(Ord. No. 2010-02, § 1, 1-5-2010)

Sec. 72.03. - Definitions.

As used in this chapter:

Certified arborist means an arborist certified by the International Society of Arboriculture or other nationally recognized organization.

Clearing means the removal of vegetation, including trees of less than two inches DBH.

Crown means the above-ground parts of a tree that give the tree canopy its shape at maturity.

DBH (diameter at breast height) means the trunk diameter of a tree or palm determined as follows:

- (a) *Single trunk*: The diameter of the trunk measured at 4.5 feet above the soil line.
- (b) *Multiple trunks above the soil line and below 4.5 feet above the soil line*: The diameter of the trunk measured at the narrowest point below the lowest fork.
- (c) *Multiple trunks at the soil line*: The totaled diameter of the two largest trunks measured at 4.5 feet above the soil line.
- (d) *Combination of (b) and (c)*: The totaled diameter measured as applicable for such combination.

Dead or beyond recovery means a tree or palm that is in an overall state of irrecoverable decline, as determined by a certified arborist, or that has more than 50 percent dead woody growth.

Encroachment means any protrusion of a vehicle outside of a parking space, vehicular use area, or access way into a landscaped area.

Florida-friendly landscaping means landscaping practices that promote preservation of Florida's natural resources and protection of the environment as further defined in F.S. § 373.185.

Ground cover means mulch, low growing plants, usually growing no higher than two feet, or sod installed in such a manner as to form a continuous cover over the ground.

Hazardous or unsafe means the condition of a tree or palm that constitutes a threat of injury to persons or damage to property due to structural defect or a weakened or damaged condition.

Hedge means a fence, screen, or barrier formed by a dense row of plant material such as shrubs or low trees.

Landscaping means any combination of material such as, but not limited to, lawn grass, ground cover, vines, shrubs, trees, or palms, and nonliving durable material commonly used in the landscape such as, but not limited to, rocks, mulch, sand, or paving for pedestrian use (but excluding paving used for vehicles), benches, fountains, exterior landscape accent lighting fixtures, and any other similar items.

Large-scale canopy tree means a tree having a crown spread of 40 feet or greater in diameter when mature.

Mangrove means rooted trees and seedlings of red mangrove (*Rhizophora mangle*), black mangrove (*Avicenna germinans*), and white mangrove (*Laguncularia racemosa*), but only when having a coastal or estuarine association.

Mulch means small, nonliving organic or non-organic aggregated material such as gravel, rocks, pebbles, tree bark, pine needles, wood or rubber chips, or wood shavings used or intended for use as a protective ground covering in landscaping.

Native means vegetation species known to be in existence in Florida before the arrival of Columbus in the New World.

Off-street parking area means all areas used for the display or parking of any and all types of vehicles, boats, trailers, or other equipment, whether such vehicles, boats, or equipment are self-propelled or not, and all land upon which such vehicles traverse the property as a function of the primary use, including, but not limited to drive-through and drive-up lanes.

Palm means a tropical evergreen plant species, characteristically having an un-branched trunk with a crown of large pinnate or palmate leaves.

Protected tree and *protected palm* mean trees and palms receiving special protection under this chapter based on the minimum DBH of a tree or the minimum height of a palm.

Pruning means the cutting or removing of any part of the branching structure of a tree or palm in the crown, trunk, or root areas.

Relocation means the act of removing or causing removal of a tree or palm from the ground in which it grew or was planted and re-planting the tree or palm in a different location on the same lot or site with the intent of preserving such tree or palm.

Removal means the act of removing or causing removal of a tree or palm from the ground in which it grew or was planted or effectively causing its removal or destruction by damaging the trunk; tipping or other harmful or excessive pruning; damaging or removing major limbs, roots, or canopy volume; changing the natural grade above the root system or around the trunk; damaging the tree or palm such that it permits infection or pest infestation; applying any chemical or substance to or near the tree or palm; paving with concrete, asphalt, or other impervious material adjacent to or near the tree or palm; or any other action that causes the tree or palm to be dead or beyond recovery whether or not the tree or palm is physically removed.

Screening means the masking out or concealing of any visually objectionable area through the use of earthen berms or vegetation.

Shrub means a woody plant of relatively low height, generally distinguished from a tree by having several stems rather than a single trunk.

Site means the lot, parcel, or tract of land subject to any provision of this chapter.

Specimen tree means a tree receiving maximum special protection under this chapter based on species and minimum DBH.

Tipping or topping means the poor maintenance practice of indiscriminately cutting the branches or stems of a tree at right angles leaving long stubs and often used to control the size of a tree or the tree canopy or crown. Also known as rounding-over, heading-back, dehorning, capping, or hat-racking.

Tree means a plant species having an average mature crown spread of 15 feet or greater and having a trunk of three feet or greater in height that is or eventually can be maintained in a clean condition, clear of lateral woody growth.

Tree canopy means the top layer or crown of a tree.

Tree location plan means a drawing, aerial photograph, or other graphic representation showing the location of trees and palms on a lot or site and identifying those proposed to be preserved, relocated, replaced, or removed and other information required by this chapter.

Tree protection zone means areas surrounding trees and palms where physical intrusion is prohibited to prevent damage to trees and palms and their root systems during site development and construction.

Tree replacement fund means the fund established and maintained by the city pursuant to this chapter to allow an alternative means for mitigation of tree and palm removal by providing funding for the planting and maintenance of trees and palms on public property and rights-of-way in furtherance of the intent of this chapter.

Definitions in Florida Statutes, this Code, and any other applicable code may be referred to if relevant and as the context herein permits. Singular words include the plural and plural words include the singular where the context requires.

(Ord. No. 2010-02, § 1, 1-5-2010)

Sec. 72-04. - Violations; enforcement.

Any person who violates a provision of this chapter, or fails to comply therewith, or with any of the requirements thereof, may be prosecuted by any means provided by this Code or by general law. The provisions of this chapter may be enforced and correction of a continuing violation may be obtained by any means provided by this Code and by any other legal or equitable means available to the city.

(Ord. No. 2010-02, § 1, 1-5-2010)

Secs. 72.05—72.10. - Reserved.

ARTICLE II. - LANDSCAPING

Sec. 72.11. - Landscape plan required.

- (a) *Requirement before construction.* An approved landscape plan is required for any site development or construction requiring site plan approval, excluding single-family and duplex lots. The applicant for site plan review shall submit the required landscape plan to the planning and development department with the site plan application. The applicant shall also comply with all applicable requirements of this chapter regarding removal, relocation, and replacement of any specimen tree or protected tree or palm existing on the subject property or site and protection of trees and palms during site development and construction.
- (b) *Site data.* All elements of the landscape design shall be selected not only for their functional value but for their aesthetic value as well and must complement the design as a whole. All elements of the proposed landscape design, including existing vegetation, shall be shown on the landscape plan. The location, species, height, spread, spacing, and quality of each element shall be specified. Plant species specified on a landscape plan that has been approved pursuant to this chapter shall not be changed without prior approval of the planning director.
- (c) *Design quality.* It is strongly encouraged that landscape plans be prepared by registered landscape architects to ensure the highest quality of design.

(Ord. No. 2010-02, § 1, 1-5-2010)

Sec. 72.12. - Minimum landscaping requirements.

- (a) *Application of requirements.* The landscaping requirements of this section shall be cumulative and provided on the site to the extent applicable for development or construction subject to this article.
- (b) *Off-street parking and retention areas adjacent to public rights-of-way.* Whenever any off-street parking area or open-pit type stormwater retention or detention area is to be located on the site such that it is adjacent to a public right-of-way the following landscaping treatment shall be provided:
 - (1) A landscape strip at least ten feet in width located between the right-of-way and the off-street parking areas and open-pit type stormwater retention and detention areas.
 - (2) A minimum of one tree in the landscape strip for each 40 lineal feet and fraction thereof.
 - (3) A continuous hedge in the landscape strip except where interrupted by required trees.
 - (4) Ground cover in the remainder of the landscape strip.
- (c) *Off-street parking and retention areas adjacent to abutting property.* Whenever any off-street parking area or open-pit type stormwater retention or detention area is to be located on the site such that it is adjacent to abutting property the following landscaping treatment shall be provided:
 - (1) A landscape strip at least five feet in width located between the abutting property and the off-street parking areas and open-pit type stormwater retention and detention areas.
 - (2) A minimum of one tree in the landscape strip for each 40 lineal feet and fraction thereof.
 - (3) A continuous hedge in the landscape strip except where interrupted by required trees.
 - (4) Ground cover for the remainder of the landscape strip.
- (d) *Off-street parking interior.* The following landscaping treatment shall be provided in the interior of all off-street parking areas:
 - (1) A minimum of 100 square feet of landscape area located at the ends of each row of parking.
 - (2) A minimum of one tree in each landscape area located at the ends of each row.
 - (3) At least 15 square feet of additional interior landscape area for each parking space, designed and located so as to best relieve the expanse of paving.
 - (4) A minimum of one tree for each 225 square feet of additional interior landscape area and fraction thereof required by subsection (3) above.
 - (5) Ground cover for the remainder of the landscape areas.
- (e) *Other open space areas.* The following landscaping treatment shall be provided in all other required open space areas:
 - (1) A minimum of one tree for each 2,500 square feet of required open space and fraction thereof that is not satisfied by the landscape areas and landscape strips installed on the site pursuant to subsections (b) through (d) of this section.
 - (2) Ground cover for the remainder of the open space areas, excluding conservation easement areas and wetlands.
- (f) *Existing trees and palms.* Existing trees and palms on site that are in good health and sound structural condition,

which meet the standards for trees and palms required to be installed pursuant to a landscaping plan, may be counted toward meeting the minimum landscaping requirements of this article.

(Ord. No. 2010-02, § 1, 1-5-2010)

Sec. 72.13. - Landscaping specifications.

- (a) *Generally.* The following standards shall apply to all landscaping and plant materials installed on the site:
- (1) All plant material shall be Florida Grade No. 1 or better in quality as established by the Florida Department of Agriculture and Consumer Services and shall be free from all disease, insects, and other pests.
 - (2) The "Florida-friendly Plant Database" published by the University of Florida at <http://www.floridayards.org> is hereby adopted and shall provide the standards for acceptable native, drought tolerant, and salt tolerant tree, palm, shrub, and other plant species.
 - (3) At least 50 percent of required plant material shall be drought-tolerant species.
 - (4) At least 50 percent of required plant material shall be native Florida species.
 - (5) At least 50 percent of required plant material on Orchid Island shall be high salt-tolerant species.
 - (6) All required landscaping shall be installed in a sound and workmanlike manner according to accepted good planting procedures.
 - (7) An automated irrigation system shall be provided for all required landscape areas for irrigation during establishment and selectively during times of drought. Irrigation system design and installation shall employ the most current water saving devices, including, but not limited to, moisture sensors and drip irrigation where appropriate to conserve water.
 - (8) All plant material shall be compatible with the local climate, proposed physical site improvements, existing and proposed public and private improvements, and the proposed stormwater management plan for the site.
 - (9) All landscape areas shall be protected from vehicular encroachment.
 - (10) All synthetic, non-degradable root ball wrappings shall be removed prior to planting. Only paper or cotton burlap wrappings and cotton rope or twine may remain around the root ball of trees or palms after planting.
- (b) *Trees.* The following standards shall apply to all required trees installed on the site:
- (1) The latest edition of "Grades and Standards for Nursery Plants" published by the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, is hereby adopted and shall provide the minimum specifications for trees. The species of trees are graded in the aforementioned document under Matrices Numbers 1—5 listed in the index of plant materials.
 - (2) A minimum of two-thirds of all required trees shall meet all of the following minimum specifications based on the natural tree shape for the species:

					
MATRIX TYPE # / SHAPE:	#1 ROUNDED	#2 PYRAMIDAL	#3 COLUMNAR	#4 VASE	#5 OVAL

Three inches DBH, four feet of clear trunk.

Height	12'	9'	12'	9'	10'
Canopy spread	6'	4'	3 1/2'	5'	4'

- (3) All other required trees shall meet all of the following minimum specifications based on the natural tree shape for the species:

					
MATRIX TYPE # / SHAPE:	#1 ROUNDED	#2 PYRAMIDAL	#3 COLUMNAR	#4 VASE	#5 OVAL

Two inches DBH, three feet of clear trunk.

Height	10'	6'	9'	7'	8'
Canopy spread	5'	3'	3'	3 1/2'	3'

- (4) A grouping of three or more palms or a single palm that has or will have a crown spread of at least 15 feet at maturity may be substituted for each required tree, except any required large-scale canopy tree, to satisfy up to 25 percent of the total tree requirements. Such palms shall have a minimum height of 12 feet at the time of planting.
- (5) Specifications within each group of trees shall be considered collectively and the applicant shall comply with all criteria.
- (6) A minimum of one-third of the total required trees shall be large-scale canopy trees.
- (7) All trees shall be installed in their natural state with only necessary minor pruning.
- (c) *Hedges.* The following standards shall apply to required hedges installed on the site:
 - (1) Plant material shall be a minimum of 24 inches in height at the time of planting.
 - (2) Plants shall be installed no more than 30 inches on center.
- (d) *Ground cover.* All required ground cover plant material shall be planted in such a manner and in sufficient quantity to achieve 100 percent coverage within 180 days.

(Ord. No. 2010-02, § 1, 1-5-2010)

Sec. 72.14. - Existing developed properties and redeveloped properties.

Whenever an existing structure or site is altered or improved in any way requiring site plan approval, the landscaping shall be upgraded to meet the minimum requirements of this article. However, the planning director may vary or modify this requirement if he determines in his professional opinion that upgrading of the landscaping to fully meet the aforementioned minimum requirements is not in reasonable proportion to the nature and scope of alterations or improvements to the existing structure or site. In making such a determination, the planning director must find that the modifications approved are consistent with the intent of this article, are not in conflict with the policies of the comprehensive plan, and will not adversely impact adjoining properties.

(Ord. No. 2010-02, § 1, 1-5-2010)

Sec. 72.15. - Modification of requirements.

The planning director may modify or vary the requirements of this article if he determines in his professional opinion that all the following conditions exist:

- (1) The physical characteristics of the site and surrounding properties make strict compliance with the requirements of this article impractical and unreasonably burdensome to the applicant;
- (2) The modifications approved are consistent with the intent of this chapter and are not in conflict with the policies of the comprehensive plan; and
- (3) The modifications approved will not adversely impact adjoining properties.

(Ord. No. 2010-02, § 1, 1-5-2010)

Sec. 72.16. - Final inspection required.

On all projects requiring landscape plan approval pursuant to this chapter, a final landscape inspection and approval by the planning and development department shall be required prior to the issuance of a certificate of occupancy by the building department. No certificate of occupancy shall be issued until all required landscaping is completed in strict compliance with the approved site plan, landscape plan, and the requirements of this Code as determined by the planning and development department after inspection. If the planning director determines in his professional opinion that the conditions so warrant, he may authorize the building official to issue a conditional certificate of occupancy which shall be strictly contingent upon all required landscaping being brought into compliance with the approved site plan, landscape plan, and the requirements of this Code within a reasonable amount of time as determined by the planning director.

(Ord. No. 2010-02, § 1, 1-5-2010)

Sec. 72.17. - Continuing maintenance required.

Any person owning or occupying the site shall have the continuing duty and obligation to maintain or cause the maintenance of all landscaping required pursuant to this article by the approved site plan, landscape plan, or this Code in compliance with the following minimum maintenance standards:

- (1) All landscaping and landscape areas shall be maintained so as to present a neat and orderly appearance.
- (2) All dead plant material shall be promptly replaced with plant material meeting the requirements of the approved site plan and landscape plan.
- (3) Trees and palms that are removed, excessively pruned, dead, or beyond recovery shall be replaced pursuant to the permitting requirements of [section 72.42](#) and the mitigation requirements of [section 72.44](#).

(Ord. No. 2010-02, § 1, 1-5-2010)

Secs. 72.18—72.30. - Reserved.

ARTICLE III. - TREE CLASSIFICATIONS

Sec. 72.31. - Specimen trees.

The following trees are classified as specimen trees:

- (1) Any tree of the species identified below that has a DBH that equals or exceeds that specified.

Common Name	Scientific Name	DBH (inches)
Live Oak	Quercus virginiana	20
Laurel Oak	Quercus laurifolia	20
Water Oak	Quercus nigra	15
Sand Live Oak	Quercus geminate	15
Buttonwood	Conocarpus erectus	15
Gumbo Limbo	Burera simaruba	15
Sycamore	Platanus occidentalis	15

- (2) Any hardwood tree species not listed in subsection (1) above that has a DBH of 20 inches or greater and is in good health and sound structural condition, excluding tree species classified as invasive pursuant to [section 72.33](#).

(Ord. No. 2010-02, § 1, 1-5-2010)

Sec. 72.32. - Protected trees and palms.

The following trees and palms are classified as protected trees and palms:

- (1) Any tree species having a DBH of three inches or greater but less than that specified in [section 72.31](#) for a specimen tree, excluding tree species classified as invasive pursuant to [section 72.33](#) or exempted from the provisions of article IV of this chapter.
- (2) Palms 12 feet or greater in height regardless of DBH, excluding palm species classified as invasive pursuant to [section 72.33](#) or exempted from the provisions of article IV of this chapter.

(Ord. No. 2010-02, § 1, 1-5-2010)

Sec. 72.33. - Invasive trees and palms.

The tree and palm species listed as invasive exotics in the latest edition of the List of Invasive Plant Species published by the Florida Exotic Pest Plant Council and available at www.fleppc.org are classified as invasive trees and palms, and shall include, but is not limited to, the following species:

Common Name	Scientific Name
Australian-pine, river sheoak	Casuarina cunninghamiana
Australian-pine,	Casuarina lepidophloia
Australian-pine, beach sheoak	Casuarina equisetifolia
Australian-pine (suckering), gray sheoak	Casuarina glauca
Ear-pod Tree	Enterolobium cyclorarpum
Chinaberry	Melia azedarach
Brazilian Penner	Schinus terebinthifolius

EXPAND

Secs. 72.34—72.40. - Reserved.

ARTICLE IV. - TREE AND PALM PROTECTION

Sec. 72.41. - Permit required; exemptions.

- (a) *Permit required.* An approved tree removal permit issued pursuant to the provisions of this article shall be required before removal of any specimen tree, protected tree or palm, or any tree or palm required by an approved site plan or landscape plan.
- (b) *Exemptions.* The following shall be exempt from the permit requirements of this article:
 - (1) Trees and palms classified as invasive pursuant to [section 72.33](#), except when the tree or palm was required by an approved site plan or landscape plan.
 - (2) Trees and palms grown or sold by licensed plant or tree nurseries, but only for the relocation of those trees and palms for sale or intended for sale in the ordinary course of the licensee's business.
 - (3) All fruit trees.
 - (4) Trees and palms removed by a governmental entity or public utility when located in public right-of-way or utility easement where the tree or palm interferes with the physical construction of improvements within the right-of-way or easement, causes disruption to public utilities and services, is in a hazardous or unsafe condition, is dead or beyond recovery due to disease, infection, infestation or damage, or is at 80 percent or more of the average life cycle for the species.
 - (5) Trees or palms removed by a governmental entity when required by Federal Aviation Administration or Transportation Security Administration regulations where the tree or palm interferes with navigable airspace or the airport security fence clear zone.
 - (6) Trees having a DBH of less than three inches, except trees required by an approved site plan or landscape plan.
 - (7) Palms less than 12 feet in height, except palms required by an approved site plan or landscape plan.
 - (8) Palms and non-specimen trees located within the playing boundaries of a golf course, except trees and palms required by an approved site plan or landscape plan.
 - (9) Mangroves. However, any person trimming, cutting, or removing any mangroves or performing any other action affecting mangroves or causing any such actions shall comply with all permit and other requirements of the Florida Department of Environmental Protection, the St. Johns River Water Management District, and all other governmental and regulatory agencies that now have or may in the future have jurisdiction over and regulate such actions.

(Ord. No. 2010-02, § 1, 1-5-2010; Ord. No. 2011-01, § 1, 1-4-2011; Ord. No. 2019-07, § 4, 5-21-2019)

Sec. 72.42. - Permit application; review and approval.

- (a) *Application.* A permit application for removal of a specimen tree, protected tree, protected palm, or tree or palm required by a site plan or other development approval shall be submitted to the planning and development department on a form specified by the planning director together with all required supporting materials and a nonrefundable

application fee. If the tree or palm removal is in conjunction with a site plan or other development approval, the permit application shall be submitted with the site plan or development application.

- (b) *Multiple trees or palms.* A single permit application may be provided for removal of multiple protected trees, protected palms and specimen trees.
- (c) *Contents of application.* The application shall include the following for all trees and palms proposed for removal subject to the provisions of this article:
 - (1) Description of each tree and palm proposed to be removed, but not relocated on site or off site, including species, DBH, height, and condition.
 - (2) Description of each tree and palm, proposed to be relocated on site or off site including species, DBH, height, and condition.
 - (3) Reasons for removal of the tree or palm.
 - (4) Description of efforts and options the applicant has considered and evaluated to preserve the tree or palm through relocation or through alteration of any proposed structure or site improvement design or location, if applicable.
 - (5) Mitigation the applicant proposes to provide for each tree or palm to be removed, if required by [section 72.43](#).
 - (6) Two copies of an accurate and legible tree location plan provided on minimum 8½-inch by 11-inch and maximum 24-inch by 36-inch paper specifying the following information:
 - a. Location of all existing trees and palms, identifying those to be removed or relocated on site or off site;
 - b. The proposed location for relocated or replacement trees and palms;
 - c. DBH of each relocated or replacement tree and palm and the height of each replacement palm;
 - d. The common or scientific name for each relocated or replacement tree and palm; and
 - e. The location of existing and proposed improvements, including, but not limited to, structures, paving, utility easements, power lines, and stormwater retention and detention areas.
 - (7) Written determination and report of a certified arborist for any tree or palm to be removed because it is dead, beyond recovery, or at the end of its lifecycle, whenever such determination and report are deemed necessary by the planning director because the condition of the tree or palm or the cause of such condition cannot be readily determined without the professional services of a certified arborist. The professional services of a certified arborist and all supporting materials, inspections, and reports shall be provided by the applicant at the applicant's expense.

The planning director may waive or modify any of the above permit application requirements that are deemed unnecessary due to the nature and scope of the proposed tree or palm removal. If the proposed tree or palm removal is tied to an approved landscape plan or site plan, the information provided in the approved landscape or site plan may be used to fulfill some or all of the above application requirements, if approved by the planning director.

- (d) *Application review; conditions for permit approval.* All permit applications for removal of any specimen tree, protected tree, protected palm or tree or palm required by a site plan or other development approval shall be reviewed by the planning director in consultation with the public works director, if necessary. Such review shall be pursuant to the procedures provided by [section 64.05](#) of this Code for code compliance certification or [section 64.06](#) for site plan review, as applicable. The planning director shall approve issuance of the permit upon finding one or more of the following conditions exist:
 - (1) The tree or palm is in a hazardous or unsafe condition.
 - (2) The location or condition of the tree or palm creates a danger of causing disruption to public utilities or services.
 - (3) The tree or palm is dead or beyond recovery due to disease, infection, infestation, damage, or other condition from natural causes.
 - (4) The age of the palm or tree is at 80 percent or more of the average lifecycle for its species as supported by the written findings of a certified arborist.
 - (5) The tree or palm is within a power line right-of-way or easement and cannot be properly pruned.
 - (6) The tree or palm, including but not limited to its root system, is causing damage to a structure or site improvements used for vehicular traffic or utilities.
 - (7) The tree or palm is located on that portion of the site where structural or other construction or site development is proposed or, the proposed improvements are located within the protection zone for the tree or palm as calculated in [section 72.45](#) and a certified arborist or the public works director has determined that the chances of the tree's survival due to the proximity of proposed site improvements is very unlikely. And the tree or palm in such location inordinately burdens, restricts, or limits the reasonable use of the property and the applicant has made every reasonable effort to the maximum extent practicable to preserve the tree or palm through its relocation or through alteration of the design or location of the structure or other proposed site improvements. For purposes of this subsection "reasonable use" of the property includes existing and reasonably foreseeable non-speculative land uses permitted by the land development regulations of the city that are suitable for the subject property and compatible with adjacent land uses.
- (e) *Permit conditions.* Permit approval may include reasonable conditions deemed necessary by the planning director to assure compliance with the purpose and intent of this chapter.
- (f) *Permit duration.* Any permit issued for tree removal permit shall be valid for 60 days, except that the term of any tree removal permit issued in conjunction with an approved site plan or other development approval shall run concurrently with the term of the associated development approval.

(Ord. No. 2010-02, § 1, 1-5-2010; Ord. No. 2011-01, § 1, 1-4-2011; Ord. No. 2013-19, § 2, 10-1-2013)

Sec. 72.43. - Mitigation required; tree replacement fund; mitigation exceptions.

- (a) *Applicability.* Except as otherwise provided in this section, the removal of any specimen tree, protected tree, or protected palm, or tree or palm required by an approved site plan or other development approval shall be mitigated by meeting or exceeding the total DBH required to be replaced either by the installation of replacement trees and palms and/or payment into the city tree fund pursuant to the requirements this section. Mitigation is not required for the removal of any trees and palms successfully relocated on site or off site in accordance with subsection (l) below.
- (b) *Mitigation requirements.* The mitigation required for trees and palms to be removed and not relocated on site or off site shall be determined in accordance with the following procedures:
 - (1) Within the front, side, and rear yard setbacks for principal buildings, the total DBH of each specimen tree removed, one-half the DBH of each protected tree removed, and one-half the DBH of each protected palm removed shall be calculated and summed for each of the three categories.
 - (2) Outside the front, side, and rear yard setbacks for principal buildings, the total DBH of each specimen tree removed, one-half the DBH of each protected tree removed, and one-half the DBH of each protected palm removed shall be calculated and summed for each of the three categories.
 - (3) The resulting total DBH calculated for each category in subsection (b)(2) shall then be multiplied by a DBH reduction factor of five percent.
 - (4) The total DBH for each category in subsection (b)(1) above shall then be added to the resulting adjusted DBH values calculated in subsection (b)(3) above for each category as applicable. The resulting DBH sum for each category is the required mitigation for tree and palm removal.
- (c) *Mitigation options.* Mitigation requirements of this section shall be met by the installation of replacement trees and palms pursuant to subsections (d) and (e) below, payment into the tree replacement fund pursuant to subsection (i) below, or a combination of replacement and payment into the tree replacement fund. Any of the required mitigation that is not met by replacement trees and palms shall be met through payment into the tree replacement fund.
- (d) *Replacement specimen and protected trees.* Replacement trees for a specimen or protected tree shall meet or exceed the following requirements:
 - (1) Replacement trees shall be of a species on a list recommended by the Florida Urban Forestry Council for Central Florida similar to the tree removed in terms of height and canopy spread at maturity. A replacement tree not on the aforementioned recommended list may be substituted with the approval of the planning director in consultation with the public works director.
 - (2) Multiple approved replacement trees meeting the requirements of this section may be installed to satisfy the DBH replacement requirement subject to the approval of their spacing and location by the planning director in consultation with the public works director.
 - (3) Each replacement trees shall be a minimum of three inches DBH at the time of installation.
 - (4) At the time of installation, each replacement tree shall meet the minimum height standards for the particular tree species in Matrices Numbers 1—5 in the latest edition of "Grades and Standards for Nursery Plants" published by the Florida Department of Agriculture and Consumer Services, Division of Plant Industry.
 - (5) Replacement trees shall be Florida Grade No. 1 or better in quality as established by the Florida Department of Agriculture and Consumer Services and shall be free from all disease, insects, and other pests.
- (e) *Replacement protected palms.* Replacement palms for a protected palm shall meet or exceed the following requirements:
 - (1) Replacement palms shall be of a species on a list recommended by the Florida Urban Forestry Council for Central Florida similar to the palm removed in terms of height and canopy spread at maturity. A replacement palm not on the aforementioned recommended list may be substituted with the approval of the planning director in consultation with the public works director.
 - (2) Multiple approved replacement palms meeting the requirements of this section may be installed to satisfy the DBH replacement requirement subject to the approval of their spacing and location by the planning director in consultation with the public works director.
 - (3) Replacement palms shall be a minimum overall height of ten feet at the time of installation.
 - (4) Replacement palms shall be Florida Grade No. 1 or better in quality as established by the Florida Department of Agriculture and Consumer Services and shall be free from all disease, insects, and other pests.
- (f) *Trees and palms required by an approved site plan or other development approval.* Mitigation for removal of any tree or palm required by an approved site plan or other development approval to meet the landscape or landscape buffer requirements of this Code or conditions placed on-site plan approval shall meet or exceed the following requirements:
 - (1) Removal of any tree or palm meeting the classification of a specimen tree, protected tree, or protected palm at the time of removal shall be mitigated pursuant to the requirements of this section for such classification of tree or palm with the condition that all or part of the mitigation requirement shall be met by replacement of the removed tree or palm in accordance with subsections (d) and (e) above.
 - (2) Removal of any tree or palm, other than a tree or palm meeting the classification of a specimen tree, protected tree or protected palm shall be mitigated by replacement with a species on a list recommended by the Florida Urban Forestry Council for Central Florida having the same or greater DBH and height. A replacement tree or palm not on the aforementioned recommended list may be substituted with the approval of the planning director in consultation with the public works director.

- (3) Removal of any tree or palm meeting the classification of an invasive tree or invasive palm at the time of removal shall be replaced with non-invasive species on a list recommended by the Florida Urban Forestry Council for Central Florida. A replacement tree or palm not on the aforementioned recommended list may be substituted with the approval of the planning director in consultation with the public works director.
- (4) Replacement trees and palms shall be Florida Grade No. 1 or better in quality as established by the Florida Department of Agriculture and Consumer Services and shall be free from all disease, insects, and other pests.
- (5) Each replacement tree or palm shall meet the requirements and be installed on the site in accordance with sections [72.12](#) and [72.13](#).
- (g) *Time for mitigation.* The installation of replacement trees or palms and the relocation of trees and palms onsite, shall be completed within 30 days after removal of the tree or palm or if required in conjunction with a site plan or other development approval, all relocated trees and palms and the mitigation by installation of replacement trees or palms shall be completed prior to the final landscaping inspection or issuance of a certificate of occupancy. Such time may be extended by the planning director for good cause shown upon written request of the permit holder.
- (h) *Inspection required.* The permit holder shall notify the planning and development department within five days after installation of the replacement and relocated trees and palms provided to meet the requirements of this section. Upon notification, the planning director shall make an inspection of the site and shall either approve the mitigation or notify the permit holder or his agent by electronic and regular mail of any violations which must be corrected in order to comply with the permit conditions and requirements of this chapter. In any instance requiring re-inspection, the permit holder shall pay the assessed re-inspection fee before compliance may be certified.
- (i) *Tree replacement fund; alternative mitigation.*
 - (1) There is hereby established a city tree replacement fund for the purpose and intent of providing applicants with an alternative means for mitigating the removal of specimen trees, protected trees, and protected palms by allowing payment by the applicant into such fund the amount that it would cost for purchase and installation of the required replacement trees and palms. The amount of such costs shall be as determined or approved by the city engineer. All amounts paid into the fund shall be reserved solely for the removal of invasive plants, purchase, relocation, costs directly related to tree planting, installation of tree-related irrigation systems, or maintenance of trees and palms on public property and rights-of-way within the city. With the approval of city council, such funds may be used to purchase vacant property for the preservation of existing trees or palms of significant public interest.
 - (2) The applicant for a tree removal permit may mitigate the removal by payment into the city tree replacement fund the amount that it would cost for purchase and installation of the required replacement trees and palms in lieu of installing some or all of the required replacement trees or palms on the site. The removal of any tree or palm required by an approved site plan or other development approval shall be mitigated by replacement pursuant to subsection (f) and, if any remaining mitigation is required due to the size of the removed tree or palm, it shall be mitigated pursuant to this section.
 - (3) The tree or palm removal permit shall not be issued until the applicant electing to mitigate tree or palm removal pursuant to this section has paid the amount approved for mitigation into the city tree replacement fund.
- (j) *Exception to mitigation requirements.* Except for a tree or palm required by an approved site plan or other development approval, mitigation shall not be required for removal of a specimen tree or protected tree or palm that is dead or beyond recovery due to natural causes or that is in a weakened and unsafe condition due to age, storm, fire, insects, disease, or other natural causes.
- (k) *Replacement trees and palms.* Any replacement tree or palm installed to meet mitigation requirements of this section or replacement of a tree or palm required by an approved site plan or other development approval that does not survive or is not thriving one year after installation shall be replaced with another tree or palm of a species on a list recommended by the Florida Urban Forestry Council for Central Florida similar to the tree or palm replaced in terms of height and canopy spread at maturity that meets or exceeds the minimum requirements for replacement trees or palms of this section. A replacement tree or palm not on the aforementioned recommended list may be substituted with the approval of the planning director in consultation with the public works director.
- (l) *Relocated trees and palms.* Any specimen tree, protected tree, or protected palm may be relocated on site or off site onto public lands in the city. The following provisions shall apply to trees and palms to be relocated on site and off site as applicable:
 - (1) Any on-site relocation of a tree or palm is subject to approval by the planning director in consultation with the public works director.
 - (2) Any tree or palm relocated on site that does not survive or is not thriving one year after installation shall require mitigation pursuant to this section.
 - (3) No off-site relocation of a tree or palm shall be approved unless the applicant obtains written permission from the public works director to implement the necessary removal, transfer, and replanting of the tree and palm. Any costs associated with the relocation shall be entirely borne by the applicant unless otherwise agreed to in writing by the public works director.

(Ord. No. 2010-02, § 1, 1-5-2010; Ord. No. 2011-01, § 1, 1-4-2011; Ord. No. 2013-19, § 3, 10-1-2013; Ord. No. 2019-05, § 2, 3-5-2019)

Sec. 72.44. - Removal without permit unlawful.

- (a) *Removal without permit.* It shall be unlawful and a violation of this Code for any person to directly or indirectly through any means, remove, cause the removal of any specimen tree, protected tree or palm, or any tree or palm required by an approved site plan or landscape plan without first obtaining the permit required by [section 72.41](#).

- (b) *Minimum penalties.* The following specified minimum penalties shall apply for each violation of subsections (a) and (d) of this section:

Tree or palm species removed	Penalty each tree or palm
Specimen live oak	\$500.00
Specimen other tree species	250.00
Protected live oak	500.00
Protected other tree or palm species	250.00
Tree or palm required by site plan or landscape plan*	150.00
(*other than a specimen tree or protected tree or palm)	

- (c) *Remedial permit and enhanced mitigation required.* Any person having admitted or having been found responsible for a violation of subsection (a) shall within a reasonable amount of time:
- (1) Submit the permit application required pursuant to [section 72.42](#) to the planning and development department and pay double the established application and permit fees; and
 - (2) Provide double the mitigation that would have been required pursuant to [section 72.43](#) had the tree or palm been removed, relocated, or replaced pursuant to an approved permit.

The requirements of this subsection shall be in addition to and not in lieu of any punishment, penalty, or costs imposed, assessed, or paid. A reasonable amount of time allowed for compliance with this subsection shall be determined by the authority having jurisdiction of the violation.

- (d) *Failure to mitigate violation.* Failure of any person having admitted or having been found responsible for a violation of subsection (a) to comply with the remedial permit or mitigation requirements of subsection (c) shall be unlawful and a violation of this Code. Each day of noncompliance past the date given for compliance shall be a separate violation subject to the minimum penalties provided in subsection (b) for each corresponding tree or palm.

(Ord. No. 2010-02, § 1, 1-5-2010)

Sec. 72.45. - Protection before and during site development and construction.

- (a) *Requirements.* All trees and palms required pursuant to the approved site plan or landscape plan to be preserved, relocated, or installed on the site shall be protected before and during all land clearing, site development, and construction in accordance with the following minimum requirements of this section:
- (1) All trees and palms required to be preserved or relocated shall be clearly marked prior to commencement of any land clearing or site development.
 - (2) All required preserved, relocated, and installed trees and palms shall be protected from damage or injury during construction by the designation of tree protection zones pursuant to the following standards:
 - a. Prior to development activities, a temporary tree protection fence shall be installed around each existing tree or palm or groups of trees and palms to be preserved that designates the tree protection zone for this tree or palm or groups of trees or palms.
 - b. Immediately following the installation of new or relocated trees or palms, a temporary tree protection fence shall be installed around each new or relocated tree or palm or groups of trees or palms that designates tree protection zones for this tree or palm or groups of trees or palms.
 - c. Each required tree protection zone shall have a minimum radius of 1.25 feet of protected area for each inch of DBH of tree or palm to be protected or five feet whichever is greater.
 - d. Temporary tree protection fences shall be clearly visible and kept intact through construction and shall be at least three feet in height with supporting stakes to ensure the fences remain anchored in the ground.
 - e. The temporary tree protection fences may be removed only after all materials and equipment are removed from the site.
 - (3) Within tree protection zones, the following are prohibited:
 - a. Construction activity, including the movement of equipment, machinery, and vehicles and the storage of building materials, debris, fill, soil or other materials.

- b. Use, storage or cleaning of vehicles, machinery, and equipment.
 - c. Discharge, dumping, or disposal of material or waste, such as but not limited to any paint, stain, oil, solvent, chemical, asphalt, cement, concrete, mortar, or any residue thereof.
 - d. Placement of any structure or site improvement, except for landscaping or related irrigation improvements.
- (b) *Guidance on tree care during construction.* Applicants are encouraged to supplement the above minimum requirements by following the tree care guidance recommendations published by the International Society of Arboriculture at www.treesaregood.com.

(Ord. No. 2010-02, § 1, 1-5-2010)

Sec. 72.46. - Planting invasive trees and palms discouraged; removal.

- (a) The planting anywhere within the city of any tree or palm species classified as invasive pursuant to [section 72.33](#) is strongly discouraged.
- (b) Trees and palms classified as invasive pursuant to [section 72.33](#) may be removed without a permit except where such tree or palm was required by an approved site plan or landscape plan.

(Ord. No. 2010-02, § 1, 1-5-2010)

Sec. 72.47. - Pruning.

- (a) *Acceptable pruning practices.* In order to produce and promote strong, healthy, and attractive trees and palms, pruning and maintenance of specimen trees, protected trees and palms, and trees and palms required by an approved site plan or landscape plan shall be performed in compliance with the provisions of this section or otherwise in conformance with certified arborist approved standards.
 - (1) *Crown thinning.* Crown thinning may be used as a method of pruning to increase light penetration and air movement through the crown of a tree by selective removal of branches pursuant to the following guidelines:
 - a. Favor branches with strong, U-shaped angles of attachment.
 - b. Remove branches with weak, V-shaped angles of attachment and/or included bark.
 - c. Work toward resulting in lateral branches that are evenly spaced on the main stem of young trees.
 - d. Remove any branches that rub or cross another branch.
 - e. Make sure that lateral branches are no more than one-half to three-quarters of the diameter of the stem to discourage the development of co-dominant stems.
 - f. Do not remove more than one-quarter of the living crown of a tree at one time, and if necessary, only do so over successive years.
 - (2) *Crown raising.* Crown raising may be used as a method of pruning to provide clearance for pedestrians, vehicles, buildings, lines of sight, and vistas by removing lower branches pursuant to the following guidelines:
 - a. Maintain live branches on at least two-thirds of a tree's total height. Removing too many lower branches will hinder the development of a strong stem.
 - b. Remove basal sprouts and vigorous epicormic sprouts.
 - (3) *Crown reduction.* Crown reduction may be used as a method of pruning to reduce the height of a tree pursuant to the following guidelines:
 - a. Use crown reduction pruning only when absolutely necessary.
 - b. Make the pruning cut at a lateral branch that is at least one-third the diameter of the stem to be removed.
 - c. Remove the entire branch if it is necessary to remove more than half of the foliage from a branch.
- (b) *Harmful pruning practices.* No specimen tree, protected tree or palm, or tree or palm required by an approved site plan or landscape plan shall be subjected to topping, tipping or other excessive pruning practices. Any such pruning that causes the destruction or killing of such tree or palm or otherwise results in its removal shall be a violation of this Code and subject to the mitigation requirements of this chapter.

(Ord. No. 2010-02, § 1, 1-5-2010)

Sec. 72.48. - Emergency waivers.

The requirements of this article may be waived or modified to the extent determined necessary by the city manager in the interest of public health, safety, and welfare during a state of local emergency declared pursuant to article III, chapter 34 of this Code.

(Ord. No. 2011-01, § 1, 1-4-2011)