

## Chapter 54 - TREE PROTECTION PROGRAM

## Sec. 54-01. - Intent.

It is the intent of the regulations contained herein to provide guidelines, controls, and standards for the planting, maintenance, removal and protection of trees within the city. The goal of these regulations is to enhance and insure the continuance of the existing tree canopy within the city so as to provide the community with the health, safety, conservation of energy, general psychological, aesthetic and economic benefits that can be derived therefrom.

(Ord. 819-95, passed 1-9-95; amend. Ord. 887-02, passed 11-25-02)

## Sec. 54-02. - Authority to supervise, enforce, modify and supplement regulations.

- (A) *Staff forester/public works department.* It shall be the duty of the staff forester or a designated representative of the public works department to supervise compliance with the regulations contained herein and to cooperate with, and assist, the code enforcement department in the prosecution of any regulation violation cases.
- (B) *Code enforcement department.* It shall be the duty of the code enforcement department to prosecute violations of the regulations contained herein before the Code Enforcement Board. The code enforcement department may prosecute violations in conjunction and cooperation with the staff forester, public works department, or on its own initiative.
- (C) *Board of Parks and Parkways.* In accordance with the authority granted to this board by §§ ~~32-30~~—32-35 of this Code of ordinances, the board shall have the responsibility to study, investigate, develop and recommend to the City Council, at least annually, any modified or supplementary regulations regarding the care, preservation, pruning, planting, replanting, removal, or disposition of trees in the City. In addition, the board shall consider, investigate, make findings of fact, report, and make recommendations regarding any special matter or question referred to it by the City Council.
- (D) *City Council.* The City Council will receive and review all recommendations referred to it by the Board of Parks and Parkways for modification of existing regulations or the addition of supplementary regulations. Any decision to enact regulation modifications or supplementary regulations shall remain within the sole and exclusive legislative jurisdiction of the City Council.

(Ord. 819-95, passed 1-9-95)

## Sec. 54-03. - Definitions.

The following words and phrases shall have the meanings ascribed to them in this section:

*Public way.* Includes all public streets, roads, boulevards, alleys and sidewalks.

*Public area.* Includes all public ways, parks and other lands owned or leased by the City.

*Tree.* Any self-supporting woody plant, usually having a single woody trunk; a potential caliper of two inches or more, and a more or less distinct and elevated head with many branches.

*Protected tree.* A tree with a minimum caliper of four inches in diameter, one foot above the ground of the species Live Oak, Laurel Oak, Gumbo Limbo, Royal Poinciana, and Mahogany.

*Maintenance and protection.* Includes all operations of: pruning, spraying, injecting, fertilizing, treating, bracing, doing surgery work, cutting above or below the ground.

*Staff forester.* The individual appointed to assist the City staff and departments assigned to administer this program by the City Council.

*Pruning.* The removal of plant parts, dead or alive, in a careful and systematic manner so as not to damage other parts of the plant.

*Specimen tree.* A tree with any individual trunk which has a caliper larger than 12 inches. All nuisance trees listed in section 54-06(B)(5) are specifically determined to not to be specimen trees.

*Tree service/arborist.* Any person, company, corporation or service which, for compensation or a fee, performs tree maintenance and protection.

*Developed property.* Property containing a structure which has a valid certificate of occupancy.

*Equivalent replacement.* A tree or trees, which due to condition, size and value, is determined by the public works department to be equivalent to the tree to be removed.

*Equivalent value.* An amount of money which reflects the replacement cost of a tree, (including transportation, planting and initial maintenance to insure survival) based on its size, condition and location, following the international society of arborers tree evaluation formula and the market value.

*Topping.* A process to flat-cut the top of a tree or to remove more than one-third of the tree crown; hatracking.

*Public nuisance.* Any tree or shrub or part thereof growing upon private or public property which is determined by the staff forester or public works department representative to endanger the health, safety and general welfare of the City.

*Large tree.* A tree with a mature height of 40 feet or more in height, a mature canopy wider than 22 feet, and a mature root system wider than 15 feet.

*Medium tree.* A tree with a mature height of between 26 feet and 39 feet, a mature canopy between 15 feet and 22 feet, and a mature root system between ten feet and 15 feet.

*Small tree.* A tree with a mature height of 25 feet or smaller, a mature canopy smaller than 15 feet, and a mature root system smaller than ten feet.

*Drop-crotch pruning.* A specific type of pruning designed to properly reduce the size of trees within the current national arborist association standards, or any subsequent amendments thereto.

*Branch collar.* Trunk tissue that forms around the base of a branch.

*Shade tree.* Any tree with a mature crown width that is at least two-thirds of the tree's mature height.

*Crown.* Main part of the branching of a tree.

*Crown width.* The width of the crown at its widest point measured on a plane parallel to the ground.

*Caliper.* A tree measurement that takes the diameter of the tree at 12 inches above the rootball.

*Root ball.* A group of roots extending from the base of a tree trunk that must be intact when relocating a tree in order to promote survival of the tree.

*Nonviable.* Not capable of existing and continuing to provide the biological or aesthetic qualities associated with a healthy functioning tree resource.

*Effectively destroyed.* The cutting, trimming, or damaging of a tree's trunk, branch or root system to the extent that the tree is no longer viable.

*Tree removal.* Directly or indirectly cutting down, destroying, removing or relocating or effectively destroying (through damaging, trimming, authorizing or allowing the cutting down, destroying, removing, moving or damaging of) any tree.

(Ord. 819-95, passed 1-9-95; amend. Ord. 887-02, passed 11-25-02; amend. Ord. 911-04, passed 3-22-04)

#### Sec. 54-04. - Tree planting standards.

The following standards shall be applicable to the planting of all trees on any City owned or controlled property or right-of-way.

- (A) All trees to be planted shall have symmetric crown form, a single trunk or leader, good crown color, no insect damage, well spaced branches, healthy new leaves, healthy well attached bark, strong crotches, adequate root space, and be of at least Florida No. 1 quality.
- (B) All large trees and palm trees to be planted in the swale will be not less than a three inch caliper and 12 feet tall with one main trunk free of branches between five and six feet above ground. All small trees to be planted will be not less than two inches in diameter measured six inches above the ground, and six feet tall.
- (C) All trees shall be planted in line or in an aesthetically ordered manner, except as may be delineated on a landscape plan authorized and approved by the City Council. Large trees shall be planted at a spacing of between 25 and 35 feet from each other; small trees and palm trees shall be planted at a spacing of between ten and 20 feet from each other.
- (D) No tree shall be planted under pre-existing utility lines that will grow to a mature height of more than 24 feet or within 20 feet of such line.

(Ord. 819-95, passed 1-9-95; amend. Ord. 887-02, passed 11-25-02)

#### Sec. 54-05. - Tree pruning standards.

The following standards shall be applicable to the pruning of all trees within the City.

- (A) The pruning practices established by the current national arborist association standards, or any subsequent amendments thereto, which are specifically incorporated herein. Copies of these pruning standards shall be maintained by the public works department and made available for inspection, review and copying.
- (B) All branches too large to be supported by one hand shall be precut to avoid splitting or tearing of the bark. Where necessary, proper equipment should be used to lower large branches or stubs to the ground.
- (C) All cuts shall be made as close as possible to the trunk or parent limb without cutting into the branch collar or leaving a protruding stub. Drop-crotch pruning for overhead utility lines shall be followed.
- (D) All cut limbs shall be removed from the crown upon completion of the pruning.
- (E) Not more than one-quarter of the total crown area should be removed at a single operation. A cutting exceeding this standard will be considered to have rendered the tree nonviable, and shall be presumed, subject to rebuttable evidence to the contrary, to be effective destruction of the tree.
- (F) All trees located on property which are adjacent to any City roadway, alley or other vehicular right-of-way shall have their branches pruned to a clearance height of between 12 and 16 feet, so that no branches shall interfere with the vehicular use of said areas.

(Ord. 819-95, passed 1-9-95; amend. Ord. 984-09, passed 9-14-09)

#### Sec. 54-06. - Tree removal standards.

The following standards shall be applicable to the removal of trees within the City.

- (A) It shall be unlawful for any person, directly or by direction, to cut down, destroy, remove or move, or to effectively remove or destroy, through the infliction of damage, any tree within the City without first obtaining a permit from the Building and Zoning Department.
- (B) The following tree removal activities are specifically exempted from the permit, relocation, replacement and mitigation requirements of this chapter:
  - (1) Removal of trees within the property boundaries of developed property which are not specimen or protected trees.
  - (2) Removal of trees for the construction of a new principal single-family residence for an owner-builder so long as the trees are not specimen or protected.
  - (3) Removal of any dead tree.
  - (4) Removal of trees in emergency situations. (See § 54-09 of this chapter for applicable guidelines and provisions).
  - (5) Removal of any of the following nuisance tree species:

	SPECIES	COMMON NAME
(a)	Acacia auriculiformis	Earleaf Acacia
(b)	Albizzia lebeck	Woman's Tongue
(c)	Araucaria heterophylla	Norfolk Island Pine
(d)	Bambusa vulgaris	Tree Bamboo
(e)	Bischofia javanica	Bischofia
(f)	Brassaia actinophylla	Schefflera
(g)	Casuarina spp	Australian Pine
(h)	Cupaniopsis anacardiodes	Carrotwood
(i)	Enterolobium cyclocarpum	Ear Tree
(j)	Eucalyptus spp	Eucalyptus
(k)	Ficus spp	Ficus
(l)	Grevillea robusta	Silk Oak
(m)	Hibiscus tiliaceus	Mahoe
(n)	Melaleuca quinquenervia	Melaleuca
(o)	Metopium toxiferum	Poison Wood
(p)	Psidium quajava/littorale	Guava
(q)	Ricinus communis	Castorbean
(r)	Sapium sebiferum	Chinese Tallow Tree
(s)	Schinus terebinthifolius	Brazilian Pepper
(t)	Syzygium cumini	Java Plum
(u)	Thespesia populnea	Mahoe

- (6) Removal of any tree which has been destroyed or effectively destroyed by an act of God, or by acts outside the control of the legal, beneficial or equitable owner of the real property in which the tree is located, and which acts could not have been prevented by the exercise of reasonable care.



- (7) Removal of any tree by the City in accordance with the authority and administrative discretion provided in § 54-08 of this chapter.
- (8) Removal of specimen or non-specimen mango and avocado trees.
- (C) All of the aforesaid trees listed in division (B) of this section which are dead or effectively destroyed, shall be removed by the property owner, without any permit, relocation, replacement or mitigation requirement, so as to protect adjacent properties from damage that may be caused by the dead or effectively destroyed trees.
- (D) *Application for removal permits.* Tree removal permits are required for the removal of any specimen tree not specifically exempted under division (B) of this section. The City shall provide permit application forms which shall be used by permit applicants. An owner, agent of the owner, or lessee of a property may apply for a tree removal permit. If the permit applicant is a lessee, or agent of the owner, a statement from the owner of the property, indicating that the owner has no objection to the proposed tree removal, shall be submitted with the application. The permit applicant shall submit to the City a completed application form which shall include the reasons for the requested removal, the tree size and tree caliper, and the common name of the tree to be removed. Permit application forms shall be accompanied by two diagrams showing the location of the tree to be removed which are subject to review and approval by the Building and Zoning Department. The diagrams shall include the locations of all existing tree resources and all proposed structures or utilities which may require removal or relocation of trees. If the submitted diagrams do not provide sufficient information to determine which trees will be affected by proposed development, the department may require that a tree survey of the site be prepared and submitted to the department for review.
- (E) *Permit fees.* The City shall, by resolution, establish a fee schedule for all matters relating to tree removal, relocation, replacement, monetary contribution, and all administrative reviews necessitated thereby.
- (F) *Review and evaluations of removal permit applications.* A review of each completed tree removal permit application shall be conducted by the Public Works Department. This review and all actions taken by the department shall be conducted under a standard of reasonableness using the best available practices from biology, botany, forestry, landscape architecture and other relevant fields.
- (1) *Specimen trees standards.*
- (a) Specimen trees application. Specimen trees shall be preserved whenever reasonably possible. Upon receipt of an application to remove a specimen tree, the department shall consider the following factors in evaluating said application.
1. Size and configuration of the property.
  2. Size and configuration of any proposed development.
  3. Location of the tree relative to any proposed development.
  4. Whether or not the tree can be preserved under the proposed plan or any alternative plan.
  5. Health, condition and aesthetic qualities of the tree.
  6. Whether the tree poses a threat to persons or property.
- (b) Alternate plans. If, upon review of the aforesaid factors, the department determines that a specimen tree cannot reasonably be preserved under the proposed plan, then the applicant shall provide an alternate plan which shall include preservation of the specimen tree and design alterations consistent with the scope and intent of the initially proposed plan. Alterations consistent with the scope and intent of the initially proposed plan may include, but shall not be limited to:
1. An adjustment of building orientation on a site.
  2. An adjustment of lot lines within a site proposal for more than one lot when said adjustment will not cause an unreasonable loss of usable space. An applicant shall have the burden of proof in the determination of what constitutes an unreasonable loss of usable space.
- (c) Specimen tree relocation. If preservation of the specimen tree and any alternate design consistent with the scope and intent of the initial plan are mutually exclusive, then the department may issue a permit to relocate the specimen tree. If the tree removal permit requires relocation, then the applicant shall be required to relocate the tree in a manner that will maintain the canopy within the general vicinity of the removal on the same property or to relocate the tree to a location within the City designated by the Public Works Department.
- (d) Removal of specimen trees. If relocation of the specimen tree is not feasible, due to the size, health, location, species or any other factor, then a permit may be issued for removal, and tree replacement shall be required. The Public Works Department shall designate an equivalent replacement tree or trees and a location within the city for its planting.
- (e) Replacement requirements for specimen trees. In the event that replacement is not feasible on-site, then alternative off-site replacement shall be required, or, as a last alternative, there shall be a contribution made to the City tree trust fund for the full equivalent value of the replacement tree or trees. This trust fund shall be administered by the City Council so as to insure the prompt planting of replacement trees in an area as closely adjacent as is reasonably possible to the area from which a specimen tree was properly removed.
- (f) Black olive tree removal and replacement. The following policies, standards, and requirements shall be applicable to the removal and replacement of black olive trees in the City.
1. *Private property removal.* If a property owner wishes to remove a black olive tree from a private property site, the existing tree removal procedures in this ordinance must be followed. Mitigation will be in accordance with existing rules and standards if the tree is not causing damage to the subject property. However, the amount of mitigation required may be reduced by one-half if, in the sole discretion of the Public Works Department, the subject tree is causing damage to the subject property. In all cases, the property owner shall bear the full cost of removal and disposal of the removed tree. As a condition of removal, the property owner and the City must reach an agreement for the replacement of the removed black olive tree with a City approved tree or for the payment of the required mitigation amount into the City Tree Fund prior to the removal of the specimen tree.
  - 2.

*Public property removal.* If a property owner requests the removal of a black olive tree from the City swale or right-of-way property, the decision regarding the removal shall be at the sole and exclusive discretion of the Public Works Department. If removal is permitted, the City shall pay for the cost of removal and disposal of the removed tree, and the adjacent property owner shall be required to pay one-half of the required mitigation for the removed tree prior to the removal of the tree. In addition to the foregoing, the established policy of the City in regard to the removal of black olive trees from public property mandates that no more than 20 such trees shall be removed during any fiscal year of the City and that the City will replace all removed trees during its annual Black Olive Tree Replacement Program.

- (g) Exemption from relocation replacement and contribution requirements. An applicant may be exempt from the relocation, replacement and contributions previously set forth herein under the following conditions:
1. Subject to the review and approval of the City Public Works Department, and upon the submittal of a statement from a landscape architect registered in the state, or from an accredited graduate forester, which indicates that a specimen tree, due to disease, condition, growth habit or any other reasonable botanical factor, does not provide the aesthetic or environmental contribution associated with the specimen tree. Said statement shall include the specific reason(s) for the claimed exemption.
  2. When preservation of the specimen tree would cause an unreasonable risk to existing property.
  3. When a site contains more than one specimen tree, and 50 percent or more of the existing specimen trees and at least 50 percent of the existing specimen tree canopy area is preserved.
  4. When a specimen tree is determined by the Public Works Department to be undesirably located or that it may pose a threat to other adjacent specimen trees.
- (2) *Compliance.* If the application for a tree removal permit is filed in conjunction with the construction and development of real property within the City, no Certificate of Occupancy shall be provided to the subject property until all applicable provisions of this chapter have been met.
- (G) *Tree protection requirements during construction.* During site development, protection requirements for trees designated for preservation shall include, but not be limited to, the following:
- (1) Protective barriers shall be placed around each tree, cluster of trees, or the edge of the preservation area no less than six feet (in radius) from the trunk of any protected tree cluster or preservation area unless a lesser distance is specified by the Public Works Department. Protective barriers shall be a minimum of four feet above ground level and shall be constructed of wood, plastic or metal, and shall remain in place until development is completed and the Public Works Department has authorized their removal. Protective barriers shall be in place prior to the start of any construction.
  - (2) Understory plants within protective barriers shall be protected.
  - (3) No oil, fill, equipment, building materials or building debris shall be placed within the areas surrounded by protective barriers, nor shall there be disposal of any waste materials such as paints, oils, solvents, asphalt, concrete, mortar or any other materials harmful to trees or understory plants within the areas surrounded by protective barriers.
  - (4) Trees shall be braced in such a fashion as to not scar, penetrate, perforate or otherwise inflict damage to the tree.
  - (5) Natural grade shall be maintained within protective barriers. In the event that the natural grade of the site is changed as a result of site development, such that the safety of the tree may be endangered, tree wells or retaining walls are required.
  - (6) Underground utility lines shall be placed outside the areas surrounded by protective barriers. If said placement is not possible, disturbance shall be minimized by using techniques such as tunnelling.
  - (7) Fences and walls shall be constructed to avoid disturbance to any protected tree. Post holes and trenches located close to trees shall be dug by hand and adjusted as necessary, using techniques such as discontinuous footings, to avoid damage to major roots.
- (H) *Tree relocation standards.* The relocation of any tree shall be consistent with the following minimum standards:
- (1) **Trees other than palms:**
    - (a) Tree roots shall be severed in such a manner as to provide a root ball which is sufficient to ensure survival of the tree when relocated. A sufficiently-sized planting hole shall be provided at the relocation site to ensure successful regrowth.
    - (b) After root severing, adequate time shall be allowed prior to replanting to ensure survival of the tree(s). After root severing and prior to relocation, tree(s), shall be watered a minimum of twice weekly. After relocation, tree(s) shall be watered a minimum of four times each week until the tree(s) are established.
    - (c) During removal and transportation of the tree, the root ball and vegetative portion of the tree shall be protected from damage from wind or injury. Any tree that dies or becomes nonviable within 12 months of relocation shall be replaced.
  - (2) **Palm trees.**
    - (a) A ball of earth at least one foot from the base of the tree shall be moved with the tree.
    - (b) All fronds on Sable Palms shall be trimmed around the bud prior to relocation.
    - (c) The bud shall be protected from damage or injury during relocation.
    - (d) Any palm that dies or becomes nonviable within 12 months of relocation shall be replaced.

(Ord. 819-95, passed 1-9-95; amend. Ord. 887-02, passed 11-25-02; amend. Ord. 904-03, passed 9-22-03; amend. Ord. 966-08, passed 2-25-08; amend. Ord. 984-09, passed 9-14-09; amend. Ord. 1001-2010, passed 12-13-10)

Cross reference— Penalty, § 10-99.

Sec. 54-07. - Tree abuse prohibited.



It shall be unlawful to abuse any protected or specimen trees located within the City of Miami Springs or any other trees located on City owned or controlled property or right-of-way.

(A) The following acts shall constitute tree abuse:

- (1) Damage inflicted upon any part of a tree, including its root system, by machinery, mechanical devices, soil compaction, excavation, vehicle accidents, chemical applications, changes to the natural grade, fire, storage or disposal of toxic or hazardous substances, acts of animals.
- (2) Damage inflicted to or cutting upon a tree which permits infection or pest infestation.
- (3) Cutting upon any tree which destroys its natural shape.
- (4) Topping; hatracking.
- (5) Bark removal of more than one-third of the tree caliper.
- (6) Tearing and splitting of limb ends or peeling and stripping of bark.
- (7) Use of climbing spikes.
- (8) Fastening any sign, rope, wire or object by nail, staple, chemical substance, or other adhesive means to, through or around any tree.
- (9) Any pruning in violation of the practices established by the national arborist association.
- (10) Any act that would cause a tree to become nonviable.

(B) Any act of tree abuse that renders a protected or specimen tree to be nonviable or effectively destroyed shall constitute "effective removal" and require full compliance with § 54-06 of this article.

(Ord. 819-95, passed 1-9-95; amend. Ord. 887-02, passed 11-25-02)

**Cross reference**— Penalty, § 10-99.

Sec. 54-08. - Public property planting and maintenance standards.

Notwithstanding anything contained in this section to the contrary, the city shall have the sole and exclusive right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public areas, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of all public grounds. The city may remove or cause to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature constitutes a public nuisance or is injurious to sewers, electric lines, gas lines, water lines or other public improvements, or is afflicted with any injurious fungus, insect or pest. This section does not prohibit the planting of trees adjacent to any public ways by adjacent property owners provided that the trees are properly placed and maintained in accordance with the tree planting and maintenance standards contained herein.

(Ord. 819-95, passed 1-9-95; amend. Ord. 887-02, passed 11-25-02)

Sec. 54-09. - Applicability to utility companies.

Except as may be provided in the "Booklet of Minutes and Agreements" established jointly by Florida power and light company and the ad hoc tree committee on September 23, 1991 (a copy of which is permanently maintained in the public works department and is available for review and inspection), the provisions of this chapter are applicable to all utility companies.

(Ord. 819-95, passed 1-9-95)

Sec. 54-10. - Emergency provisions.

In the event that it is believed that any tree in the City is in such a hazardous condition so as to endanger the public health, safety and general welfare unless it is immediately removed, the City Manager, or his designee, may verbally authorize the removal of such tree following a personal inspection of the subject tree without the securing of a removal permit as required by this chapter. In addition, the provisions and requirements of this chapter may be temporarily stayed by a majority vote of the City Council following the occurrence of a hurricane, tornado, flood, or other natural disaster.

(Ord. 819-95, passed 1-9-95)

Sec. 54-11. - Enforcement.

Any violations of the provisions and requirements of this chapter shall be prosecuted on behalf of the City by the Code Enforcement Department before the Code Enforcement Board in accordance with its rules, regulations, and procedures as mandated in §§ 32-65—32-71 of this Code of Ordinances or in accordance with the rules, regulations and procedures contained within the City's Supplemental Code Enforcement Citation System codified in Code of Ordinance § 101-01. Nothing contained herein shall in any way limit any other department of City government from participating and assisting in the prosecution of violations of this chapter.

(Ord. 819-95, passed 1-9-95; amend. Ord. 918-04, passed 11-8-04)