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CHAPTER 175. TREE PROTECTION, LANDSCAPING, BUFFERING

PART 1. TREE PRESERVATION CODE.

§ 175.001. GENERAL PROVISIONS.

- (A) Intent. The city finds that trees provide many environmental, aesthetic, and economic functions. It is declared to be essential to preserve trees as a means to:
- (1) Protect the value of lands and water quality;
 - (2) Preserve community appearance; and
 - (3) Assist climate control, soil stabilization, oxygen exchange, and noise and air pollution abatement
- (B) These factors relate to the economy of the city and provide for the health, safety and welfare of residents and visitors of the city. It is the intent of this code to provide for the enhancement, preservation, and protection of the City's existing tree canopy and to regulate the removal, relocation, or destruction of trees.

§ 175.002. REMOVAL CRITERIA.

- (A) The following justifications shall be considered for the proposed removal of existing tree(s) and vegetation:
- (1) Necessity to remove trees which present a hazard or other unsafe condition to pedestrian pathways~~people~~, vehicular traffic, or threaten to cause disruption to public services or public easements including, utilities.;
 - (2) Removal of Class I invasive species of trees and/or vegetation (as identified annually by the Florida Invasive Species Council) which characteristically becomes nuisance overgrowth and outcompetes native vegetation.
 - (3) Necessity to remove diseased or fallen trees or trees weakened by age, storm, or fire;
 - (4) The extent to which tree or vegetation removal is likely to result in damage to the property or structures of the applicant or others, public or private, including damage to buildings, ~~accessory~~ structures, lakes, ponds, streams or rivers, drainage canals or swales;
 - (5) Proposed landscaping improvements including plans whereby the applicant has planted or will plant trees or vegetation to replace those that are proposed to be cleared;
 - (6) Necessity to remove trees or vegetation in order to construct proposed improvements to allow economic use of the property, including the need for access for construction equipment (maximum of ten feet) and essential grade changes;
 - (7) ~~Will not cause Topography of the land and the~~ adverse impact ~~to of tree or vegetation removal on erosion, soil retention, and the diversion or increased flow of~~ surface water flows, and the conservation of, which is necessary to use the land while conserving natural resources, including protected species habitat. ;

- (8) Must be removed so the applicant may use the property for any use permitted, conditional, or special use for the zoning district in which the property is located and that such a use could not be made of the property unless the tree is removed; and
- (9) Alternative site plans shall be considered to determine if protected trees, specimen trees, and native vegetation may be retained.

§ 175.003. PROTECTION OF TREES TO BE PRESERVED

(A) All trees not approved for removal shall be protected and maintained during site preparation and construction, as specified herein:

- (1) Identification of trees to be preserved. All trees to be preserved shall be identified on-site with harmless bands, flagging, or other suitable markings. These shall correspond with the approved site plan.
- (2) For all activities requiring a site plan, the method of protection shall appear in the graphic details within the approved site plan.

~~(3) All efforts shall be made through the grading and drainage plan to maintain the natural drainage to those trees to be preserved. Swaling and minor negative grade changes should always be designed outside the critical root zone as much as possible. Piping should be used where deep swales or ditches would require significant grade changes adjacent to trees to be saved. Trenching of any type should be avoided in the CRZ. Where underground installations are required adjacent to the trunks of trees to be preserved, tunneling should be used. When trenching or tunneling near trees to remain, all possible protective measures should be taken.~~

~~(4)~~(3) *Critical Root Zone (CRZ)*. shall be established for each tree retained on site. This shall be calculated by taking the DBH of the tree and multiplying by twelve (12). This is the diameter in inches of the CRZ, centered on the tree. Visible barricades shall be erected along the CRZ line of all trees to be protected. These barricades shall be no closer than the calculated CRZ or ten (10) feet from the trunk of the tree, whichever is greater. The CRZ for all existing palms shall be three (3) feet from trunk. For clusters of four or more trees, a limit of development shall be indicated on the site plan which provides no less than twelve (12) feet of protection from the base of the outermost trees. The following activities shall be limited within the CRZ as described herein:

- (a) All felled material shall be promptly and carefully removed from the site in order to avoid potential damage to remaining trees and vegetation
- (b) Underbrush and vegetation within the CRZ shall be hand cleared
- (c) Materials, machinery, and soil shall not be placed within the CRZ.
- (d) Materials, wires, signs, or nails shall not be attached to any tree unless such materials are used to preserve the tree.

~~(4). Reasonable efforts shall be made through the grading and drainage plan to maintain the natural drainage to those trees to be preserved. Swaling and minor negative grade changes should always be designed outside the critical root zone as much as possible. Piping should be used where deep swales or ditches would require significant grade changes adjacent to trees to be saved. Trenching of any type should be avoided in the CRZ. Where~~

underground installations are required adjacent to the trunks of trees to be preserved, tunneling should be used. When trenching or tunneling near trees to remain, all possible protective measures should be taken.

- (B) All trees to be preserved, except palms, shall have their natural soil level maintained to the maximum extent practicable. Tree wells, retaining walls, or landscape timbers may be utilized where necessary to maintain the natural existing soil level.

§ 175.004 through § 175.009 RESERVED

PART 2. TREE REMOVAL, GRUBBING, AND SITE WORK PERMITTING.

§ 175.010. APPLICABILITY.

The terms and provisions of this subchapter shall apply to all lands lying within City limits, including publicly owned lands, rights-of-way, and easements, except as provided in this subchapter. It shall be unlawful to remove, destroy, cut down or damage existing tree(s) or habitat, except as defined in this subchapter.

~~Exceptions to this subchapter shall be permitted in the manner prescribed herein.~~

§ 175.011. EXPIRATION OF PERMITS.

Any permit issued hereunder shall remain valid for six (6) months and may be renewable for a second six (6) month period upon request to the City Manager or designee, provided such request occurs prior to the expiration date of the initial permit. ~~No separate~~ a permit is required for tree removal if applied by this subchapter has been issued in conjunction with ~~an approved~~ site plan, subdivision, or building permit., ~~then such permit shall remain valid for the life of the approved site plan, subdivision or building permit unless any of these approvals expire, are revoked or suspended.~~

§ 175.012. RENEWAL OF PERMITS.

The City Manager or designee may require reapplication and full review in those renewal cases where site conditions have changed substantially from the date of issuance of the initial permit as a result of natural growth of trees and vegetation or high winds, hurricane, tornado, flooding, fire, or other acts of nature.

§ 175.013. APPEALS.

Any application for a tree removal, ~~small residential site~~ land clearing, grubbing, or site work permit that has been denied may be appealed pursuant to §172.014 provided a written request is submitted to the City Manager or designee. Such appeal shall follow the procedures set forth therein.

§ 175.014. ~~TREE REMOVAL AND SMALL RESIDENTIAL SITE~~ LAND CLEARING PERMIT.

This permit is required for any land clearing or tree removal activities not covered under another approved permit or site plan. It shall be unlawful without first securing a permit to remove, destroy, cut down, damage, or cause the removal, destruction, cutting down, or damage of any protected native trees or palms having a diameter at breast height (DBH) of six (6) inches or greater or palms having four and a half (4- 1/2) feet of clear wood or greater, as measured from the ground to the base of the first fronds. ~~This permit is also required for any land clearing activities on all residential lots which are less than one (1) acre in area.~~

(A) Exceptions. Land clearing and tree removal Trees may occur ~~be removed~~ without a ~~tree removal~~ permit on the following properties:

- (1) Bona fide agricultural uses, cultivation, or grazing lands;
 - (2) Commercial nursery sites;
 - (3) Publicly owned lands, provided compliance with the Municipal Tree Code or for the purpose of habitat management or restoration;
 - (4) All residential lots less than one (1) acre in size which have been issued an approved building permit for a primary structure;
 - ~~(4) Undeveloped multi-family, commercial, industrial, or institutional sites with a recently approved site plan and a valid Site Work Permit, which has not yet received a certificate of occupancy;~~
 - (5) Developed single- and two-family lots, which meet the criteria ~~of and provide the City with the documentation~~ required in accordance with Florida State Statute 163.045 or any species of trees determined to be prohibited pursuant to § 175.027(C);
 - ~~(6) After receiving approval from the City Manager or designee, any species of trees determined to be prohibited pursuant to § 175.027(C).~~
 - ~~(7) In the event that any tree shall pose an immediate threat to persons or property, and require immediate removal, on-site verbal authorization may be given by a City Manager or designee to allow for the removal of the tree without obtaining a permit as herein required.~~
 - ~~(8)~~(6) In the event of the Declaration of a Public Emergency caused by a hurricane or other natural disaster, the provisions of this article may be suspended.
- (B) *Application.* Anyone desiring a permit ~~in to remove a tree as defined by this section code or clear a residential lot which is less than an acre in area~~ shall ~~meet~~perform the following application requirements:
- (1) Fee. Submit a fee at time of application, as established by resolution pursuant to § 172.011.
 - (2) Recorded deed indicating the current owner
 - (3) Hold Harmless agreement initialed and signed by the owner or authorized representative
 - (4) Letter of Authorization is required should the applicant not be the owner of the property
 - (5) Site sketch. Submit a site drawing of the parcel with application which clearly indicates the following information:
 - (a) Existing and proposed site features, such as structures, roads, and surface waters;
 - (b) The diameter at breast height (DBH) and species of all native trees having a diameter at breast height (DBH) of six (6) inches or greater or palms having four and a half (4- 1/2) feet of clear wood or greater, as measured from the ground to the base of the first fronds~~entire parcel;~~
 - (c) Indicate which trees are proposed for removal and which are to be preserved;
 - (d) Indicate location and species of any proposed replacement trees to be added to the site, as required in this subsection~~;~~
 - (e) Explain reason(s) for removal.

- (C) *Review Criteria.* The permit application shall be processed within ~~tenseven~~ (10) days. ~~Permit requests~~~~Requests for tree removal permits~~ shall be reviewed based on the ~~criteria listed in~~~~approved reasons for removal, pursuant to~~ § 175.002. In addition, the following considerations may apply:
- ~~(1) When there is a question of tree hazard, the applicant may be required to provide documentation from a certified arborist.~~
- ~~(2) Single and two family residential properties less than an acre, which are requesting land clearing to allow for proposed development or improvement(s), must also have the necessary building permit(s) currently under review and shall provide the permit application number with request.~~
- ~~(3)~~(1) On developed multi-family, commercial, industrial, or institutional sites which have received a certificate of occupancy, an approved tree removal may require replacement plantings to maintain the site's conformance with the approved site plan.
- ~~(4)~~(2) On all single- and two-family residential properties, an approved tree removal may require replacement plantings to maintain conformance with § 175.021.
- ~~(5)~~ (D) *Tree Credits.* On single- and two-family residential properties, for each existing native tree which is to remain and meets the following criteria, credit may be applied as determined herein towards the number of trees required by this chapter.

- (a) Existing native trees to be retained~~which are classified as protected or specimen as defined in this chapter:~~

DBH	CREDIT PER TREE
6" – less than 12"	3 trees
12" – less than 20"	4 trees
20" – and larger	5 trees

- (b) Existing palms having four and a half (4-1/2) feet of clear wood or more, as measured from the ground to the base of the first fronds which are retained, are credited on a one-for-one basis, provided they may not account for more than fifty (50%) of total trees required.

~~(D) Violations.~~ Each failure to comply with any of the provisions of this subchapter shall constitute an individual violation. The property owner, contractor and/or authorized agent shall be issued a stop work order and/or a violation notice and shall have one (1) week to apply for a tree removal permit for which the application fee shall be equal to twice the standard fee for the permit pursuant to § 172.011. The following penalties may also apply:

~~(1) Restoration Plan.~~ Dependent on the extent of violation, a restoration plan may be required. They shall then have a maximum of two (2) weeks to submit a restoration plan as described below. For projects that are under construction, a stop work order will be issued when applicable and the issuance of a certificate of occupancy for any attendant structure(s) will be withheld until the restoration plan is submitted and approved by the Planning Division. This restoration plan shall, include where applicable:

- ~~(a) Provide information as described in § 175.014(B).~~
- ~~(b) Identify the locations of new tree plantings to restore the site, providing:~~

- ~~1. One (1) restoration tree as described shall be shown for each six (6) inches of trunk diameter at breast height (DBH) of those specimen trees, as defined in this chapter, which was severely damaged, cut down, or removed from the site. Each required restoration tree shall have a minimum five (5) inch DBH and a minimum height of fifteen (15) feet and shall be a native canopy species approved by the City Manager or designee.~~
 - ~~2. One (1) replacement tree shall be shown for each protected tree, as defined in this chapter, which was severely damaged, cut down or removed from the site. Each required replacement tree shall have a minimum two and a half (2 1/2) inch DBH, three (3) feet of clear wood, a minimum height of twelve (12) feet and shall be a native canopy species approved by the City Manager or designee.~~
 - ~~3. Provide an irrigation system or method for the maintenance for the new trees, in compliance with §175.28(B).~~
 - ~~4. All replanted trees shall be properly planted, mulched, and secured to ensure their establishment.~~
 - ~~5. Indicate a schedule for the restoration to occur which shall at the latest coincide with the final inspection for a site development, where applicable, or within three (3) months where final inspections would not normally occur. If the restoration does not occur within the approved time schedule, each day of which the property is not in compliance shall constitute a violation of this subchapter and the violation shall be presented to Special Magistrate for action.~~
- ~~(2) Mitigation Fee.~~ Should it be determined that a restoration plan is not feasible, then for each restoration tree not replanted as required above, the specimen tree mitigation fee shall be paid and for each replacement tree not replanted as required above, the protected tree mitigation fee shall be paid pursuant to § 172.011. If the site has been cleared, and little evidence of the removed trees is present so as to determine the extent of the violation, then they shall be held responsible for the replanting of four (4) restoration trees, as defined above, per one quarter (1/4) acre of disturbed area or shall pay specimen tree mitigation fee for the four (4) trees pursuant to § 172.011.
- ~~(3) Environmental Regulations.~~ In the event it is determined that a violation as defined herein has resulted in potential impacts to protected species or habitats, the applicable regulatory agencies shall be notified, and additional penalties may be imposed.

§ 175.015. GRUBBING PERMIT.

It shall be unlawful without first securing a Grubbing Permit to remove or destroy underbrush vegetation except as defined by this subchapter. A grubbing permit does not authorize the clearing, scraping, balancing, or filling of land or the removal of protected native trees, palms, specimen trees, or mangroves. Methods of grubbing include hand clearing, roto-chopping, or mulching in place.

(A) *Exceptions.* ~~Shrubs~~The following exceptions to this subchapter shall be permitted in the manner ~~prescribed: shrubs~~, vegetation, or underbrush may be removed without a grubbing permit on the following properties:

- (1) Bona fide agricultural uses, cultivation, or grazing lands;

- (2) Commercial nursery sites;
- (3) Publicly owned lands, provided in compliance with the Municipal Tree Code or for the purposes of habitat management or restoration;

(4) ~~All Single and two family~~ residential ~~lots~~ sites less than ~~one (1) an~~ acre in size.

~~(5) Undeveloped multi-family, commercial, industrial, or institutional development which have been issued has an approved building permit for site plan and a primary structure; valid Site Work Permit and has not yet received a Certificate of Occupancy.~~

~~(6)~~(5) Any site in which the area to be grubbed is one quarter (1/4) acre in area or less.

(B) *Application.* Anyone desiring a permit for grubbing activities as defined by this code shall perform the following application requirements:

- (1) Fee. Submit a fee at time of application, as established by resolution pursuant to § 172.011;
- (2) Recorded deed indicating the current owner;
- (3) Hold Harmless agreement initialed and signed by the owner or authorized representative
- (4) Letter of Authorization is required should the applicant not be the owner of the property
- (5) Site sketch. Submit a site drawing with application which clearly shows all the following information:
 - (a) All major existing and proposed site features, such as: structures, roads, and surface waters;
 - (b) The diameter at breast height (DBH), ~~scientific~~, and common names of all protected native ~~each~~ tree over six (6) inches DBH and palm with at least 4-1/2 feet of clear wood which is within and in the vicinity of the area to be grubbed;
 - (c) Clearly delineate and provide the estimated acreage of the proposed area of grubbing; and
 - (d) Explain reason(s) for grubbing.

(C) *Review Criteria.* The permit application shall be processed within ~~ten~~seven (10) days. Requests for grubbing permits shall be reviewed based on the approved reasons for removal, pursuant to § 175.002. In addition, the following considerations may apply:

- (1) Environmental summary. For larger areas over one acre in size, which are determined to be environmentally sensitive, an environmental summary of the subject property may be required which provides information regarding any natural habitats (FLUCCS Map) and species within the proposed grubbing area and the immediate vicinity.
- (2) ~~Grubbing~~If the proposed grubbing site does not have a submitted plan for development, grubbing of environmentally sensitive lands may be restricted by the requirement for an external agency ~~permit~~permits and/or the presence of protected species or habitat.

~~(D) Violations. Each failure to comply with any of the provisions of this subchapter shall constitute an individual violation. The property owner, contractor and/or authorized agent shall be issued a stop work order and/or a violation notice and shall have two (2) weeks to apply for a grubbing permit for which the application fee shall be equal to twice the standard fee for the permit pursuant to § 172.011. The following penalties may also apply:~~

~~(1) Restoration Plan. Dependent on the extent of violation, a restoration plan may be required. They shall then have a maximum of two (2) weeks to submit a restoration plan as described below. For projects that are under construction, a stop work order will be issued when applicable and the issuance of a certificate of occupancy for any attendant structure(s) will be withheld until the restoration plan is submitted and approved by the City Manager or designee. This restoration plan shall include where applicable:~~

~~(a) Provide information as described in § 175.015(B).~~

~~(b) Identify the locations and species of new plantings as required by City Manager or designee to restore any native habitat that may have been damaged~~

~~(c) Provide irrigation system or method for the maintenance of the new vegetation, in compliance with 175.19(B).~~

~~(d) Indicate a schedule for the restoration to occur which shall at the latest coincide with the final inspection for a site development, where applicable, or within three (3) months where final inspections would not normally occur. If the restoration does not occur within the approved time schedule, each day of which the property is not in compliance shall constitute a violation of this subchapter and the violation shall be presented to the Magistrate for action.~~

~~(e) Should it be determined that a mitigation plan is not feasible, then they shall pay the amount equal to the specimen tree mitigation fee for each one quarter acre of land that is grubbed, pursuant to § 172.011.~~

~~(2) Environmental Regulations. In the event it is determined that a violation as defined herein has resulted in potential impacts to protected species or habitats, the applicable regulatory agencies shall be notified, and additional penalties may be imposed.~~

§ 175.016. SITE WORK PERMIT.

As part of Site Plan Review, which is required for sites over one acre, a Tree Survey is required, and mitigation will be applied as indicated below. Following site plan approval, and prior to issuance of a Sitework Permit, a Pre-Sitework Meeting shall be held. It shall be unlawful₂ without first securing a Site Work Permit₂ to clear, scrape, balance, and fill the land surface except as defined by this subchapter. A site work permit also authorizes the removal of trees and underbrush vegetation in accordance with the provisions of the approved site plan.

(A) *Exceptions.* The following exceptions to this subchapter shall be permitted in the manner prescribed: land clearing, scraping, filling, land balancing activities may occur without a permit on the following properties:

(1) Bona fide agricultural uses, cultivation, or grazing lands;

(2) Commercial nursery sites;

(3) All residential lots Single and two family sites with less than one (1) acre in size which have been issued an approved building permit for a primary structure; of area; and

(4) Publicly owned lands provided compliance with the Municipal Tree Code or for the purposes of habitat management or restoration.

(B) *Application.* Anyone desiring a permit for site work activities as defined by this code shall perform the following application requirements:

- (1) ~~Fees. Site Work Permit Fee and Tree Mitigation-~~ Fee must be submitted prior to Site Plan approval~~during the site plan review process~~, as established by resolution pursuant to § 172.011~~;~~;
- (2) Recorded deed indicating the current owner;
- (3) Documentation that all applicable external agency permits have been acquired and;
- (4) Site Plan Approval. A City-stamped, approved, site plan must be submitted at time of application;
- (5) Environmental Assessment. Full environmental report for the subject property which provides information regarding any natural habitats, soils, vegetation, and species, and surface waters (natural and manmade) present on the proposed development site and within the immediate vicinity. This shall also include related maps and whether the site is within the protected Turkey Creek or Indian River Lagoon watersheds.
- (6) Tree Survey Required. A ~~complete~~ survey of native trees on the proposed development site shall be part of the site plan submittal and shall be at a scale of no greater than one (1) inch equals fifty (50) feet (1:50) which clearly shows the following information drawn to scale:
 - (a) All existing ~~and proposed~~ site features, such as: structures, ~~grading and drainage, pavements,~~ easement, ~~landscaping,~~ utilities, streets, ~~screening requirements~~ waterways or drainage features;
 - (b) ~~Trees~~ Sites to be inventoried include, at minimum, native protected trees on the site which have a 6 inches DBH or greater, and palms which have 4.5 feet of clear wood or more. Identification of the ten (10) acres. The diameter at breast height, ~~scientific,~~ and common names of each located every tree shall be shown on the survey site;
 - (c) Sites above ten (10) acres. The diameter at breast height, botanical, and common names of all protected and specimen trees as defined in this subchapter. General distribution/groupings of inventoried ~~protected~~ trees ~~as defined in this subchapter~~ may be shown on the tree survey site plan instead of individual trees. The scale of this drawing may be increased as per the City Manager or designee~~;~~;
 - (d) Identification of ~~those~~ trees proposed for removal to be removed and those to be preserved on the survey using an X, circles, or color.
 - (e) Provide a table ~~the number~~ of all inventoried ~~protected~~ trees to be removed which includes the number of trees of each species to be removed by their specific DBH and the sum of the DBH. ~~of all specimen trees to be removed.~~
 - (f) Graphic details and notes explaining the method(s) for the protection of those trees to remain shall be in compliance with § 175.03.
 - (g) Name, signature, address, and telephone number of surveyor ~~property owner and his agent, if applicable.~~
 - (h) Legal description and address of property.
 - (i) North arrow and scale.

(C) *Tree Credits*. The property owner, developer, contractor, and/or authorized agents shall make every effort to retain existing trees on site. The preservation of groupings of trees and native vegetation is preferred. For each existing tree that is retained on a development site which meets the following criteria, credit may be applied towards the number of trees required by this chapter, as follows:

(1) Existing protected and specimen trees to be retained, as defined in this chapter:

Diameter at Breast Height	Credit Per Tree
6" – less than 12"	3 trees
12" – less than 20"	4 trees
20" – and larger	5 trees

(2) A grouping of four (4) or more existing trees, some of which may be less than six (6) inches DBH, may be credited according to the sum of their DBH, provided the sum DBH is equal to at least six (6) inches.

(3) Existing palms, as defined in this chapter, having four and a half (4- 1/2) feet of clear wood or more, as measured from the ground to the base of the first fronds are credited on a one-for-one basis. Palms retained for credit shall not comprise more than thirty (30%) percent of the total trees required.

(4) In lieu of tree credits, the preservation of existing vegetation may be presented in consideration for administrative variance approval of the following, provided the request meets the criteria set forth in §172.025:

(a) Parking space reduction waivers,

~~(a)(b)~~ increases in intensity/ density,

~~(b)~~ Increases in intensity/ density,

(c) increase in building height/ length, or

(d) decreases in required landscaping.

(5) Pre-Sitework Meeting. Following site plan approval and prior to issuance of a Sitework Permit, a Pre-Sitework Meeting shall be held.

(D) *Review Criteria*. The permit application shall be processed within ~~ten~~seven (10) days, except that no site work permit shall be issued until the owner/developer has applied for building permit(s) and all applicable subdivision and/or site plan reviews have been completed and approved. In addition, the following may apply:

(1) Reasonable efforts shall be made on the property to save and design around existing healthy trees. Preservation of protected and specimen native trees may be required after review ~~in the field~~ by the City Manager or his designee. However, this shall not reasonably restrict the development of a permitted use and shall not create an unsafe condition.

(2) ~~Efforts~~Effort shall be made to preserve enough trees on site so as to maintain the character of the existing tree coverage in adjacent existing neighborhoods~~the neighborhood~~ based upon the number, type, size and distribution of trees.

- (3) Efforts shall be made to preserve specimen trees and those trees which are of significant historical, aesthetic, or ecological importance to a site and/or the city.
- (4) Efforts shall be made to preserve trees, especially groupings of trees, which are located within required landscape areas or yards.
- (5) Efforts shall be made to select, design and locate permitted signs so that they do not necessitate the removal of trees.

(E) Tree Mitigation. In addition to those trees required by the Landscaping Code, mitigation for trees approved for removal shall be required as follows:

- ~~(6)~~ (1) ~~One~~ (1) restoration tree shall be shown on approved landscape plan for each six (6) inches DBH of specimen trees, defined as having twelve (12) or more inches DBH, which was approved for removal. Each required restoration tree shall have a minimum five (5) inch DBH trunk and a minimum height of fifteen (15) feet and shall be a native canopy species approved by the City Manager or designee.
- ~~(7)~~ (2) ~~In addition to trees required by the Landscaping Code, one~~ (1) replacement tree shall be shown on the approved landscape plan for each protected tree, having from six (6") to less than twelve (12) inches DBH, which was approved for removal. Each required replacement tree shall have a minimum two and a half (2-1/2) inch DBH trunk, three (3) feet of clear wood, a minimum height of twelve (12) feet and shall be a native canopy species approved by the City Manager or designee.
- ~~(8)~~ (3) In the event that trees as required above are not added to the landscape plan, the following fees will apply: for each restoration tree, the specimen tree mitigation fee shall be paid and for each replacement tree required above, the protected tree mitigation fee shall be paid pursuant to §172.011.

175.017 VIOLATIONS OF TREE PROTECTION CODE

~~Failure~~Violations. ~~Each failure~~ to comply with any of the provisions of this subchapter shall constitute an individual violation. The property owner, contractor and/or authorized agent shall be issued a stop work order and/or a violation notice, as applicable and shall have one (1) week to apply for permits or a site plan revisions~~work permit~~ for which the application fee shall be equal to twice the standard fee for the permit pursuant to § 172.011. The following penalties may also apply.

- (1) *Restoration Plan.* Dependent on the extent of violation, a restoration plan may be required. For proposed development sites, the restoration plan may be incorporated into the landscape plan as part of a site plan submittal. A stop-work order will be issued when applicable and the issuance of a certificate of occupancy for any attendant structure(s) will be withheld until the restoration requirements have been satisfied. The following information shall be incorporated into the restoration plan, where applicable:
 - (a) Identify the locations of new tree(s) and vegetation plantings to restore the site, providing:
 - 1. One (1) restoration tree as described shall be shown for each six (6) inches of trunk diameter at breast height (DBH) of those specimen trees, having twelve (12) or more inches DBH which was severely damaged, cut down, or removed from the site. Each required restoration tree shall

have a minimum five (5) inch DBH trunk and a minimum height of fifteen (15) feet and shall be a native canopy species approved by the City Manager or designee.

2. One (1) replacement tree shall be shown for each protected tree, having from six (6") to less than twelve (12) inches DBH, which was severely damaged, cut down or removed from the site. Each required replacement tree shall have a minimum two and a half (2-1/2) inch DBH trunk, three (3) feet of clear wood, a minimum height of fifteen (12) feet and shall be a native canopy species approved by the City Manager or designee.

(b) Provide irrigation system or method for the maintenance for the new trees, in compliance with §175.028(B).

(c) All replanted trees shall be properly planted, mulched, and secured to ensure their establishment.

(d) Indicate a schedule for the restoration to occur which shall at the latest coincide with the final inspection for a site development, where applicable, or within three (3) months, where final inspections would not normally occur. If the restoration does not occur within the approved time schedule, each day of which the property is not in compliance shall constitute a violation of this subchapter and the violation shall be presented to Special Magistrate for action.

(2) Mitigation Fees. Should it be determined that a restoration plan is not feasible, then for each restoration tree not replanted as required above, the specimen tree mitigation fee shall be paid and for each protected tree not replanted as required above, the protected tree mitigation fee shall be paid pursuant to § 172.011.

(3) Stormwater Violation. Conducting site work activities without an approved drainage plan is in violation of the Stormwater Management and Conservation Ordinance and may be subject to the penalties provided in §177.030(C).

(4) *Environmental Regulations*. In the event it is determined that a violation as defined herein has resulted in potential impacts to protected species or habitats, the applicable regulatory agencies shall be notified, and additional penalties may be imposed.

§ 175.~~018017~~ through § 175.019 RESERVED