

Sec. 11.02. - Tree Preservation, Protection, and Replacement.

11.02.01. *Protected trees defined.* All trees that meet the following criteria are protected, with the exception of invasive species (see Section 11.02.05.C.1) and/or species not suited to this area per the United States Department of Agriculture hardiness list:

- A. The trunk is six inches or greater diameter.
- B. Trees with a trunk four inches or greater diameter, if surveyed for credit.
- C. Specimen trees, which are any protected trees with a trunk of 24 inches or greater diameter except for sand pines; however the following species are considered specimen trees when they reach one of the following:
 - 1. Twelve inches or greater diameter: Cypress, Magnolia, Loblolly Bay, Red Bay, Scrub Oak, and Red Cedar;
 - 2. Eighteen inches or greater diameter: Elm, Hickory, Oak, Green Ash, Sycamore, Date Palm, and Maple.
- D. Historic trees, which are any protected trees with a trunk of 36 inches or larger diameter.
- E. For SFR/DPX development, any tree 1½ to six inches in diameter that was planted to meet the minimum tree density requirements or an existing tree that was previously credited towards meeting the requirements of this chapter.

11.02.02. *Tree survey requirements.*

- A. *Tree survey.* The required survey shall be accomplished within the last 24 months and shall identify all protected trees by species name and the size of the trunk measured at the diameter at breast height.
- B. *Monument signs.* Where monument signs are proposed to be located on an existing development, all protected trees that are located within 50 feet of the proposed sign shall be shown on the tree survey.
- C. *Protected, specimen, and historic trees.*
 - 1. *MFR/COM and IND developments.*
 - a. The tree survey shall show all protected trees six inches in diameter and greater from the property lines to five feet past the required buffer area width, except as provided in Section 11.02.02.D. Protected trees within any adjacent rights-of-way extending to the nearest street pavement shall be included in the survey.
 - b. All specimen and historic trees shall be individually located and identified over the entire site as to species and size except as provided in Section 11.02.02.D.
 - 2. *SUBD developments.* All specimen and historic trees shall be individually located and identified over the entire site as to its species and size except as provided in Section 11.02.02.D.
 - 3. *SFR/DPX developments.*
 - a. Protected trees six inches or greater diameter within all front, rear, and street side building setback areas shall be surveyed and shown on the tree survey if the trees are going to be used for credit.
 - b. Specimen and historic trees shall be surveyed over the entire lot except as provided in Section 11.02.02.D.
- D. *Survey of individual trees not required.* Under the following circumstances, the Land Use Administrator may determine that a survey identifying each individual protected tree is not warranted and a count of all protected trees including species and diameter size is acceptable:

1. When existing vegetated areas are to remain undisturbed; or
2. Where some or all of a development site or a proposed subdivision must be filled to such an extent, in order for permitted development to occur, that there is no feasible means to save protected trees.
3. When the trees are located in wetland preservation or conservation areas that will not be impacted.

11.02.03. *Tree preservation.*

- A. *Specimen and historic tree preservation requirements.* Specimen and historic trees are select protected trees that due to their size and contribution to the overall tree canopy of the City are granted an extra level of significance and protection. Building footprints, drives, stormwater management facilities, and similar activities on all sites shall be designed to save the maximum practicable number of specimen and historic trees. During the subdivision platting process, lot lines shall be shifted for the same purpose. Table 11-1 shows the minimum percentage of specimen and historic trees that shall be preserved on a site. Owners of lots assigned the SFR, DPX, and EST zoning districts may remove any specimen or historic tree that is within the buildable area of the lot with no mitigation, if all reasonable efforts to shift or flip the building footprint cannot save the tree(s).

Table 11-1: Minimum Specimen and Historic Trees to be Preserved

Number of Specimen/ Historic Trees on a Site	Percentage of trees to be Preserved	
	MFR/COM, SUBD	IND
Less than 3 per acre, or a portion thereof	75%	50%
3.0 to 5.0 per acre	67%	40%
5.1 to 8.0 per acre	50%	25%
More than 8.0 per acre	4 per acre	2 per acre

- B. *Tree preservation credits.* The following credits apply only within the COM, IND, MFR, OFC, P&G, and PSP zoning districts:
1. Trees saved in wetlands or their associated upland buffers are eligible for preservation credits; however, preservation of trees in wetlands for preservation credits may not also be used as criteria for preserved wetlands and imperiled upland habitats density bonuses established in Chapter 3.
 2. A stormwater retention/detention area may be credited toward meeting the tree density requirement provided the area contains tree species that will survive periodic flooding.
 3. The total diameter of preserved protected, specimen, and historic trees on the site may be applied to satisfy the tree density requirements. A preserved palm tree shall be credited on a one-to-one basis for any palm tree removed.

4. Existing pine trees (other than sand pine) in good health may be used as buffer shade tree credits if they are a minimum of six inches diameter and comprise no more than 50 percent of the buffer tree requirement. If pines meeting these criteria are of good quality and spacing such that planting of new shade trees for some or all of the remaining required buffer shade trees is impractical, then existing pines may count for more than the 50 percent maximum requirement.

11.02.04. *Tree protection measures.*

- A. *Canopy road, specimen, and historic tree protection.* In order to protect the existing tree canopy over portions of roadways within the City, the following roadway segments have an extra level of significance and protection: Colbert Lane (from the south right-of-way line of Palm Coast Parkway SE to 2,200 feet to the south), Palm Coast Parkway east of I-95, and Palm Harbor Parkway south of the Hammock Dunes Bridge.

Roadway projects and modifications to these roadway systems necessitated by development shall preserve and protect any specimen or historic tree within the right-of-way and within 35 feet of the right-of-way line along Colbert Lane (from the south right-of-way line of Palm Coast Parkway SE to 2,200 feet to the south), Palm Coast Parkway east of I-95, and along Palm Harbor Parkway south of the Hammock Dunes Bridge. The applicant may meet this requirement by utilizing an average protected width of 35 and a minimum width of 25 feet and maximum width of 45 feet. Within these protected tree areas, the specimen and historic trees shall not be removed except for the minimal number necessary to allow for site access, sidewalks, necessary utilities, and signage. Preservation methods are to include, but are not limited to, the following:

1. Reduction of the length of turn, deceleration, or acceleration lanes subject to public safety needs and the approval of the Land Use Administrator.
 2. Consideration of alternatives to widening such as alternate service roads.
 3. Root protection/aeration construction methods such as retaining walls with guardrails.
 4. Where no practical alternative for preservation is possible, such as traffic safety conflicts, the total diameter of the protected tree being removed shall be replaced with replacement trees having no less than four-inch caliper.
- B. *Tree protection during clearing or tree trimming activities.* Protected trees, including their tree protection zones, in front buffer areas shall be preserved if trees are in good condition and do not impede access or visibility into or out of the site.
 - C. *Tree protection during construction.*
 1. During any development activity, appropriate protective measures, per City standards, shall be taken to prevent the destruction or damage of all trees to be retained on the site. The preservation of existing vegetation within the tree protection zones of all trees to be retained is required, unless the vegetation is hand cleared.
 2. Protection methods, including trimming/pruning of trees and tree barricades, shall conform to ANSI A-300 standards.

11.02.05. *Tree removal.*

- A. *Prohibitions.* Unless exempted herein, it is prohibited and unlawful for a person or entity, agent, or representative thereof, directly or indirectly, to perform or authorize the following:
 1. Cut down, remove, damage, or destroy any protected tree as defined in Section 11.02.01 on any parcel without first obtaining a tree removal permit (for required mitigation standards on MFR/COM and IND properties refer to Section 11.04.02 and on SFR/DPX properties refer to Table 11-4);
 2. Commit any act or authorize the commission of any act that physically or effectively removes a protected tree or causes a tree to die, such as damage inflicted upon the root system by heavy machinery, chemicals, or paving, any pruning or tree work inconsistent with ANSI A-

300 standards, or changing the natural grade above the root system (removal or effective removal of any protected, specimen or historic tree on MFR/COM and IND properties shall be mitigated per Section 11.04.02 and on SFR/DPX properties refer to Table 11-4);

3. Root raking the area within the tree protection zone or adding fill over the tree protection zone, which may cause damage and permit infection or pest infestation to a protected tree; or
 4. Perform tree removal, land clearing, grubbing, grading, excavation, construction, or make or install any improvement upon any site or parcel, regardless of the existence of valid permits or approvals for the given activity, unless all protected trees and protected vegetative areas established pursuant to this chapter have been surrounded by a protective barrier.
- B. *Land clearing.* During the subdivision infrastructure construction stage, clearing of trees and existing vegetation shall be limited to the minimum necessary to construct roadway and utility rights-of-way and stormwater facilities. Trees may only be cleared from individual lots upon review and approval of the tree survey and/or fire hazard considerations at the time of building permit application. However, in order to accommodate development within a subdivision where fill is required to such a depth that it would preclude the survival of existing trees, lots may also be cleared provided:
1. A clearing and grading plan shall be submitted showing vegetation and tree areas to be preserved, the amount of fill needed for lot development based on existing grades, proposed roadway and building elevations, and drainage plans.
 2. Replacement of these trees may be allowed in common areas of the subdivision (i.e., street trees, detention or retention ponds, buffer areas, etc.).
- C. *Tree removal activities exempt from permit/replacement requirements.* The following activities shall be lawful without application or issuance of a tree permit and do not require tree replacement:
1. The removal of any invasive plant species as determined by the Florida Department of Agriculture and Consumer Services' "Noxious Weeds" rule set forth in the Florida Administrative Code.
 2. The removal or alteration of any tree or vegetation in or about an existing City or utility easement or right-of-way provided such work is done by, or under the control of, the operating utility company, and said company has received all necessary licenses or permits to provide utility service within the easement.
 3. Removal or effective removal of trees severely cut by a utility company on SFR and DPX zoned platted lots.
 4. Any activity conducted by a lawfully operating and bona fide commercial nursery, tree farm, agricultural operation, silvicultural operation, ranch, or similar operation when the activity occurs on property owned or lawfully occupied by the person conducting said activity and is done in pursuit of said activity. This exemption shall include the purposeful removal of a tree or trees for their permanent relocation at another site undergoing development.
 5. Trees located within a City drainage easement, City drainage rights-of-way, or City access rights-of-way that need to be removed to allow for access to or maintenance or clearing and construction of the City's drainage ditches and drainage related facilities.
- D. *Permit requirements.*
1. A permit is required for land clearing/filling. It is prohibited and unlawful to clear trees, fill land, excavate, or dredge any parcel of land prior to the issuance of a single-family building permit or a site development permit, unless otherwise stated in this LDC, or authorized by the Land Use Administrator. The building permit shall act as the tree removal permit.
 - a. Vacant properties may be partially cleared to enable the construction of seawalls prior to a permit being issued for a principal structure. Refer to Section 4.01 for requirements.

- b. Vacant properties may be partially cleared for the purpose of removal of unsuitable debris or muck within the buildable area of a site. Refer to Chapter 9 for permitting requirements.
 - c. Vacant single-family residential properties that are under common ownership with any developed adjacent residential lot may be cleared of all pines, vegetation, and any trees less than six inches in diameter if the minimum tree densities are maintained or replaced. Refer to Chapter 9 for permitting requirements.
 - 2. Prior to the removal of any protected tree, an application for tree removal shall be submitted to the City. If the requested removal is in conjunction with an approved building permit, grade and fill permit, or a site development permit, a separate permit need not be obtained, but tree removal shall be addressed during the development order review process. The following types of tree removals require a permit but mitigation is not required.
 - a. Trees within clusters if there is a need to relieve thinning or overcrowding of trees, as part of an approved fire mitigation plan.
 - b. Protected trees, exclusive of specimen and historic trees, that would not drop the lot below the minimum tree density requirements on SFR/DPX platted lots, as outlined in Section 11.03.01.A.
- E. *Removal of protected trees.* Protected trees removed under this section shall require replacement on MFR/COM and IND properties per Table 11-2 and on SFR/DPX properties per Table 11-4 if the tree was originally preserved or planted to meet a requirement of this Chapter or the tree removal would cause the property to no longer meet the minimum tree density standards outlined in Section 11.03.01.A. Upon receipt of a completed application and verification on-site by a certified arborist or the Land Use Administrator, the Land Use Administrator may permit the removal of the following protected trees:
 - 1. Dead, severely diseased, or severely injured trees, as determined by a certified arborist or the Land Use Administrator.
 - 2. Trees that pose imminent danger to the health, safety, and welfare of the public and cannot be corrected through standard arboricultural procedures, as determined by a certified arborist.
 - 3. Trees that pose a sight distance visibility problem along any public right-of-way.
 - 4. Any pine tree within 30 feet of a structure or within a distance from a structure less than the tree's height may be removed as a safety precaution provided the property owner where the tree is located agrees to the removal and applies for the permit.
 - 5. Trees causing structural damage to a foundation, driveway, parking lot, patio, wall, water or sewer line, or which interfere with the construction or repair of public infrastructure or facilities that cannot be corrected by standard arboricultural means.
- F. *Tree removal on developed residential lots.* On developed lots zoned SFR, DPX, or EST all provisions of Section 11.02.05.D.2. and Section 11.02.05.E. would apply as well as the requirements to maintain the minimum tree density as outlined in Section 11.03.01.A. The following additional requirements also apply:
 - 1. Protected trees, exclusive of specimen and historic trees that are in excess of the minimum tree density for the lot, can be removed without mitigation, but those not in excess of the minimum tree density require replacement per Table 11-4.
 - 2. Removal of a specimen or a historic tree shall be mitigated as follows:
 - a. A specimen tree—One shade tree per Table 11-4.
 - b. A historic tree—Two trees meeting the standards of Table 11-4 with at least one tree being a shade tree.

G. *Tree thinning on MFR/COM and IND developments.* On properties where the landscaping has been planted for a minimum of ten years or where the property owner has retained or planted more trees than required by this chapter and meets all of the standards of this chapter; tree thinning of overcrowded trees may be requested by the property owner or designated agent upon submittal of a report by a certified arborist to the City. After review, the Land Use Administrator may approve or conditionally approve a thinning of the overcrowded trees when the intent of the original landscape plan and this chapter would still be met by the removal of such trees, and where:

1. Required trees have matured and grown to such a size and density that tree thinning would be the most prudent methodology for maintaining the health and vibrancy of the trees; or
2. Trees in excess of the required minimum have matured and grown to such a size and density that tree thinning would only have an insignificant impact on the overall landscaping of the site.

Preference for removal shall be given to trees having poor structure, root issues, or in declining health. Tree replacement and mitigation are not required after tree thinning.

H. *Requirements suspended.* During a declared emergency, the Land Use Administrator may suspend the requirements of this subsection.

11.02.06. *Tree mitigation standards.* Applicants are strongly encouraged to preserve as much of the existing vegetation as possible. Therefore, existing protected trees are counted toward meeting the landscaping requirements for a site. By saving protected trees, rather than planting new ones, applicants can achieve the minimum planting requirements in a more efficient and economical manner.

Tree mitigation for all protected, specimen, and historic trees for MFR/COM and IND developments shall be provided as shown in Table 11-2 and for SFR/DPX properties shall be provided per Table 11-4. The property owner shall be responsible for the cost of mitigating the trees removed from the property.

Table 11-2: Tree Mitigation Requirements for New MFR/COM and IND Development

Protected Trees	Specimen Trees	Historic Trees	Palm Trees
70% of the predevelopment tree inches removed from the required perimeter buffer areas of the site. Minimum replacement tree size shall be 2½" caliper.	70% of the tree inches removed from the site. Minimum replacement tree size shall be 3" caliper.	100% of the tree inches removed from the site. Minimum replacement tree size shall be 3½" caliper.	40% of palms removed from the site. Minimum replacement shall be 8' clear trunk palms (preferably Sabal Palms).

11.02.07. *Tree bank fund established.*

A. If due to site conditions or configuration, it is impossible or impracticable for the property owner, applicant, or developer to meet the requirements for tree density and/or replacement on-site, the property owner, applicant, or developer shall pay fees of equivalent value into the tree bank fund or plant the trees off-site upon approval of a suitable site or sites by the City. The tree bank fund shall be a separate account set up and shown in City financial records in which all receipts are detailed. All monetary contributions paid to the tree bank fund pursuant to this section shall be used exclusively for the design, planting, or replacement of trees on public lands. Funds may also be used for relocating trees onto public lands. Funds may also be used for the design and installation of irrigation systems, mulching, and staking for these trees.

- B. Valuation of contributions to the tree bank fund shall be based on the caliper size and height, if applicable, of the required hardwood tree replacement and quantity of the required palm trees in accordance with City standards. The valuation of cost shall include the current market value of similar type trees and include the following costs: tree cost, delivery, labor to install, mulching and staking.

([Ord. No. 2016-6](#), § 2, 11-1-16)