

## CHAPTER 72. - ENVIRONMENTAL PROTECTION STANDARDS

### ARTICLE III. - TREE AND PALM PROTECTION

#### Sec. 72.21. - Title.

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

#### Sec. 72.22. – Purpose and intent.

It is the purpose and intent of this Article to promote the health, safety, and welfare of existing and future residents and visitors of the City by establishing criteria for protection of native trees within the corporate limits of the City. The requirements of this Article are designed to:

- (a) Protect the health, safety, and general welfare of the public;
- (b) Improve the appearance of the community through preservation of tree canopy;
- (c) Maintain the ecological balance of the area. These minimum requirements will:
  - (1) Safeguard and enhance property values;
  - (2) Protect public and private investment;
  - (3) Encourage preservation of existing trees;
- (d) Reduce the negative environmental effects of development while protecting and enhancing the value of developed properties and the surrounding area;
- (e) Reduce soil erosion and increase infiltration in permeable land areas essential to stormwater management and aquifer recharge;
- (f) Mitigate air, dust, noise, heat, chemical pollution and glare, and other adverse environmental effects of development;
- (g) Reduce the “heat-island” effect of impervious surfaces, such as parking lots, by cooling and shading the surface area and breaking up large expanses of pavement; and
- (h) Preserve existing native vegetation as an integral part of the wildlife habitats, and incorporate native plants and ecosystems into landscape design.

#### Sec. 72.23. - Applicability and exemptions.

- (a) *General.* Except as exempted in subsection (d) below, the provisions of this Article shall apply to all unimproved real property, all publicly owned lands, all public or private rights-of-way and all improved real property, when and if any new development is proposed for such property, lands or rights-of-way or any other time removal of a protected tree is proposed.
- (b) *Time of review.* Review for compliance with the standards in this Article shall take place as part of the review of an application for the following (as appropriate):
  - (1) Tree Removal Permit (see Section 72.24);
  - (2) Site Plan (see Section 64.06);

- (3) Major Subdivision Plat (see Section 70.13); or
  - (4) Planned Development (see Section 65.29).
- (c) *Tree removal permit required.* An approved tree removal permit issued pursuant to the provisions of this Article shall be required before removal of any tree species having a DBH of three inches or greater or palms 12 feet or greater in height regardless of DBH, unless the tree removal is part of development subject to a site plan, major subdivision plat, or planned development.
- (d) *Exemptions.* The following shall be exempt from the permit requirements of this Article:
- (1) Trees and palms classified as invasive pursuant to Section 72.06.
  - (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 to obtain necessary clear visibility within sight distance triangles pursuant to Section 71.18.
  - (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.
  - (7) Palms less than 12 feet in height.
  - (8) Palms and non-specimen or non-historic trees located within the playing boundaries of a golf course.
  - (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.
  - (10) Removal of trees or palms on residential property that pose an unacceptable risk and removal is the only means of practically mitigating its risk below moderate, as determined by the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017) published International Society of Arboriculture (ISA) and signed by an arborist certified by the ISA or a Florida licensed landscape architect pursuant to F.S. 163.045.
  - (11) Emergency removal of trees that pose an immediate danger to life, limb, or property due to an accident or a storm or other act of nature, as determined by City Forester.
  - (12) The removal of diseased or dying historic or specimen trees, as certified by a qualified arborist.

**Sec. 72.24. - Permit application; review and approval.**

- (a) *Application.* A permit application required by this Article 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. Costs related to the services of the City Forester shall be paid by an additional fee pursuant to Section 64.03.
- (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 72.30.
  - (6) *Tree inventory.* 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; the tree survey shall identify the following:
      - 1. *Specimen trees.* The inventory shall indicate the species, size (in DBH), health, and location of each specimen tree on the subject lot or site.
      - 2. *Historic trees.* The inventory shall indicate the species, size (in DBH), health, and location of each historic tree on the subject lot or 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.
    - f. *Professionally prepared.* Tree inventories for site plan, major subdivision, or planned development applications shall be prepared by a licensed landscape

architect, surveyor under the direction of a licensed landscape architect, arborist, or registered forester, and shall have an accuracy of plus or minus three feet.

- g. *Use of aerial photography.* Current aerial photographs may be used in addition to or in lieu of a tree inventory in cases where a site is completely covered by existing tree canopy cover or where preparation of a tree inventory is impractical, as determined by Planning Director.
- (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.
- (8) 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.
- (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 City Forester, 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.
- (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 Article.
- (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.

**Sec. 72.25. – Minimum tree protection requirements.**

- (a) All existing residential and non-residential development subject to this Article shall:
  - (1) Retain or mitigate, if required, for the removal of existing protected trees in accordance with Section 72.27, Retention of existing tree canopy requirements;
  - (2) Retain or mitigate for the removal of existing specimen trees in accordance with Section 72.28, Retention of specimen trees;
  - (3) Retain existing historic trees in accordance with Section 72.29, Protection of historic trees; and
  - (4) Replace trees and palms required to meet minimum tree protection requirements for protected trees or specimen trees shall be mitigated pursuant to Section 72.30.
  - (5) The issuance of the tree removal permit for an existing residential or nonresidential development shall be upon finding one or more of the following conditions exist:

- a. The tree or palm is in a hazardous or unsafe condition.
  - b. The location or condition of the tree or palm creates a danger of causing disruption to public utilities or services.
  - c. The tree or palm is dead or beyond recovery due to disease, infection, infestation, damage, or other condition from natural causes.
  - d. 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.
  - e. The tree or palm is within a power line right-of-way or easement and cannot be properly pruned.
  - f. 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.
  - g. The tree or palm is proposed to be removed through a revised landscape plan pursuant to Chapter 72, Article II, Landscaping or due to a change to the existing development pursuant to a Code Compliance Certification, pursuant to Section 64.05.
- (b) All proposed single-family or duplex residential development requiring a site plan, pursuant to Section 64.06, subject to this Article shall:
- (1) Maintain a minimum tree canopy coverage in accordance with Section 72.26, Minimum tree canopy requirements;
  - (2) Retain or mitigate for the removal of existing specimen trees in accordance with Section 72.28, Retention of specimen trees; and
  - (3) Retain existing historic trees in accordance with Section 72.29, Protection of historic trees.
- (c) All proposed multi-family residential and non-residential development requiring a site plan, pursuant to Section 64.06, and multi-family residential and non-residential planned developments, pursuant to Section 65.29, subject to this Article shall:
- (1) Ensure the development or site area is occupied by trees in accordance with Section 72.26, Minimum tree canopy requirements;
  - (2) Retain or mitigate for the removal of existing specimen trees in accordance with Section 72.28, Retention of specimen trees; and
  - (3) Retain existing historic trees in accordance with Section 72.29, Protection of historic trees.
- (d) Single-family residential major subdivisions, pursuant to Section 70.13 and single family planned developments, pursuant to Section 65.29, subject to this Article shall:
- (1) Ensure the development area or site area is occupied by trees in accordance with Section 72.26, Minimum tree canopy requirements; and
  - (2) Retain existing historic trees in accordance with Section 72.29, Protection of historic trees.

**Sec. 72.26. – Minimum tree canopy requirements.**

- (a) All new or expanded development subject to this Section shall be configured so that each lot or parcel shall contain a minimum of one tree for every 2,500 square feet of development area (rounded to the nearest whole number) with the following standards:
  - (1) No more than 25 percent of the minimum tree canopy coverage requirements may consist of palms.
  - (2) *Single-family and duplex residential development.* Each lot shall maintain a minimum of two trees and be located within front or rear yard areas.
  - (3) *Multi-family residential and non-residential development.* All multi-family residential and nonresidential development, except development located within the airport security zone, shall maintain a minimum tree canopy.
- (b) When determination of the number of trees required by this Section results in a fractional tree, the fraction of less than one-half may be disregarded, and a fraction of one-half or greater shall be counted as one tree.
- (c) The minimum tree canopy coverage required by this Section shall be comprised of any combination of the following:
  - (1) The canopy of existing trees retained in accordance with Section 72.27, Retention of existing tree canopy requirements; and/or
  - (2) The canopy of existing specimen trees, retained in accordance with Section 72.28, Retention of specimen trees; and/or
  - (3) The canopy of existing historic trees, retained in accordance with Section 72.29, Retention of historic trees; and/or
  - (4) The canopy of replacement trees provided in accordance with Section 72.30, Mitigation required; tree replacement fund; mitigation exceptions.
- (d) Compliance with this Section shall be achieved through the retention and protection of existing trees, to the extent practicable. Specimen trees retained in accordance with Section 72.28, Retention of specimen trees and historic trees retained in accordance with Section 72.29, Retention of historic trees, shall be used to meet this standard, to the maximum extent practicable.
- (e) *Insufficient trees to meet requirements.* In the event the lot lacks a sufficient number of existing trees to meet the standards in this paragraph, replacement trees meeting the standards in Section 72.30, Mitigation required; tree replacement fund; mitigation exceptions, may be used.
- (f) *Inclusion within a tree protection zone.* Trees on multifamily, mixed-use, and nonresidential sites retained or added to meet this standard shall be located within a tree protection zone established in accordance with Section 72.32, Establishment of tree protection zone.

**Sec. 72.27. – Retention of existing tree canopy requirements.**

- (a) *Single-family and duplex residential development.* All parcels with single-family and duplex residential uses subject to these standards shall retain all existing protected trees on the site.



Protected trees meeting the criteria for the issuance of a tree removal permit pursuant to Section 72.25(a)(5) are not required to mitigate for the removal of the protected tree.

- (b) *Multi-family residential and non-residential development.* All multi-family residential and nonresidential development, except development located within the airport security zone, shall retain all existing protected trees on the site. Protected trees meeting the criteria for the issuance of a tree removal permit pursuant to Section 72.25(a)(5) shall require compliance with the standards in Section 72.30, Mitigation required; tree replacement fund; mitigation exceptions for the removal of the protected tree.
- (c) *Inclusion within a tree protection zone.* Trees on multifamily, mixed-use, and nonresidential sites retained or added to meet this standard shall be located within a tree protection zone established in accordance with Section 72.32, Establishment of tree protection zone.
- (d) *Replacement/mitigation of damaged or removed tree canopy.* Damage or removal of trees comprising required existing tree canopy shall require compliance with the standards in Section 72.30, Mitigation required; tree replacement fund; mitigation exceptions.

**Sec. 72.28. – Retention of specimen trees.**

- (a) *Specimen trees defined.* For the purposes of this Article, a "specimen tree" is defined as any existing, healthy trees classified as a specimen tree in Section 72.05.
- (b) *Specimen trees to be retained.* Development subject to this Section shall retain or mitigate for removal of existing specimen trees on the development site in accordance with the following:
  - (1) Within the front, side, and rear yard setbacks for principal buildings, the total DBH of specimen trees on the site shall be retained or mitigated.
  - (2) Outside the front, side, and rear yard setbacks for principal buildings, the one-half DBH of specimen tree on the site shall be retained or mitigated.
- (c) *Location of specimen trees to be removed.* Specimen trees proposed for removal shall be located on the portion of the site where structural or other construction of site development is proposed or, the proposed improvements are located within the tree protection zone, as determined by a certified arborist or City Forester that the chances of the tree's survival due to the proximity of proposed site improvements is very unlikely. The specimen tree location inordinately burdens, restricts, or limits the reasonable use of the property.
- (d) *Inclusion within a tree protection zone.* Specimen trees retained to meet this standard shall be located within a tree protection zone established in accordance with Section 72.32, Establishment of tree protection zone.
- (e) *Replacement/mitigation of damaged or removed specimen trees.* Damage or removal of specimen trees shall require compliance with the standards in Section 72.30, Mitigation required; tree replacement fund; mitigation exceptions. If the damage or removal of a specimen tree is to be mitigated by payment into the tree replacement fund, the mitigation fee is to be commensurate to the actual cost of planting a similar specimen tree. On existing single-family and duplex residential development, specimen trees meeting the criteria for the issuance of a tree removal permit pursuant to Section 72.25(a)(5) are not required to mitigate for the removal of the specimen tree.

**Sec. 72.29. – Retention of historic trees.**

- (a) *Historic trees defined.* For the purposes of this Article, a "historic tree" is defined as an existing live oak (*Quercus virginiana*) with a DBH of 36 inches or greater.
- (b) *Protection required.* Except where allowed in subparagraph [c] below, all historic trees subject to this Section shall be retained, during and after development, within a tree protection zone established in accordance with Section 72.32, Establishment of tree protection zone.
- (c) *Removal of a historic tree.*
  - (1) *Removal of a healthy historic tree.* If a historic tree is in healthy condition, it may be removed only if approved by the Planning and Zoning Board after demonstration that all of the following standards are met:
    - a. The landowner is otherwise in compliance with this Article;
    - b. The historic tree prevents development of a lot platted prior to March 1, 1978 in a way that limits building area to less than otherwise allowed, or hinders compliance with the density and intensity or development standards for the zoning district.
    - c. Mitigation is provided in accordance with Section 72.30, Mitigation required; tree replacement fund; mitigation exceptions. If the damage or removal of a historic tree is to be mitigated by payment into the tree replacement fund, the mitigation fee is to be commensurate to the actual cost of planting a similar historic tree.
    - d. To preserve a historic tree, the Planning and Zoning Board may grant building setback variances, pursuant to Chapter 66, Variances, to reduce the setback requirement by a maximum of 30% or authorize variances to other technical requirements in the City's Land Development Regulations, so long as the intent of the technical requirement is met.
  - (2) *Removal of a severely diseased, high risk, damaged, or dying historic tree.*
    - a. The Planning Director may approve the removal of a historic tree that is certified by an arborist certified by the International Society of Arboriculture (ISA) or other qualified professional as posing an unacceptable risk to persons or property and is the only means of practically mitigating its risk below moderate, as determined by the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017) published by International Society of Arboriculture. Planning Director's decision regarding removal of such a tree may be appealed to the Planning and Zoning Board pursuant to the procedures in Section 64.04.
    - b. Removal of a severely diseased, high risk, or dying historic tree shall not require mitigation in accordance with Section 72.30, Mitigation required; tree replacement fund; mitigation exceptions.

**Sec. 72.30. - Mitigation required; tree replacement fund; mitigation exceptions.**

- (a) *Applicability.* Except as otherwise provided in this Article, the damage or removal of trees within a tree protection zone, the removal of any specimen or historic tree, removal of



protected or canopy trees required to be retained by this Article, 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) For every DBH inch of historic trees that is removed or damaged, four DBH inches of replacement trees are required.
  - (2) For every DBH inch of required specimen trees that is removed or damaged, two DBH inches of replacement trees are required.
  - (3) For every DBH inch of protected trees or trees comprising required existing tree canopy that is removed or damaged, one DBH inch of replacement trees is required.
  - (4) The total DBH for each category in subsection (b)(1), (b)(2), and (b)(3) above shall then be added. 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 trees.* Replacement trees for a protected, specimen, or historic tree shall meet or exceed the following requirements:
  - (1) Replacement trees shall be of a species on the latest edition of "Central Florida Tree Selection Chart" published by the Florida Urban Forestry Council or the "Florida-friendly Plant Database" published by the University of Florida and similar to the tree removed in terms of height and canopy spread at maturity.
  - (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 City Forester.
  - (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 the latest edition of "Central Florida Tree Selection Chart" published by the Florida Urban Forestry Council or the "Florida-friendly Plant Database" published by the University of Florida and similar to the palm removed in terms of height and canopy spread at maturity.
  - (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 City Forester.
  - (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 to meet minimum tree canopy requirements, by an approved site plan or other development approval.* Mitigation for removal of any tree or palm required to meet the minimum tree canopy requirements, 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 or historic tree 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 or historic tree shall be mitigated by replacement with a species on the latest edition of "Central Florida Tree Selection Chart" published by the Florida Urban Forestry Council or the "Florida-friendly Plant Database" published by the University of Florida and having the same or greater DBH and height.
  - (3) Removal of any tree or palm meeting the classification of an invasive tree or invasive palm at the time of removal shall be mitigated by replacement with non-invasive species on the latest edition of "Central Florida Tree Selection Chart" published by the Florida Urban Forestry Council or the "Florida-friendly Plant Database" published by the University of Florida.
  - (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 72.16.
- (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 Article. 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 Planning Director, and based on a schedule of mitigation fees approved by City Council, pursuant to Sec. 64.03, Applications and fees. 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, 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 historic tree, 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 the latest edition of "Central Florida Tree Selection Chart" published by the Florida Urban Forestry Council or the "Florida-friendly Plant Database" published by the University of 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.

- (1) *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 City Forester.
  - (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 City Manager 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 City Manager.

**Sec. 72.31. - 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 72.23.
- (b) *Minimum penalties.* The following specified minimum penalties shall apply for each violation of subsections (a), (d), and (e) of this section:

Tree or palm species removed	Penalty each tree or palm
Specimen tree	\$250.00
Historic tree	\$500.00
Required canopy tree	\$150.00
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 72.24 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 72.30 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.

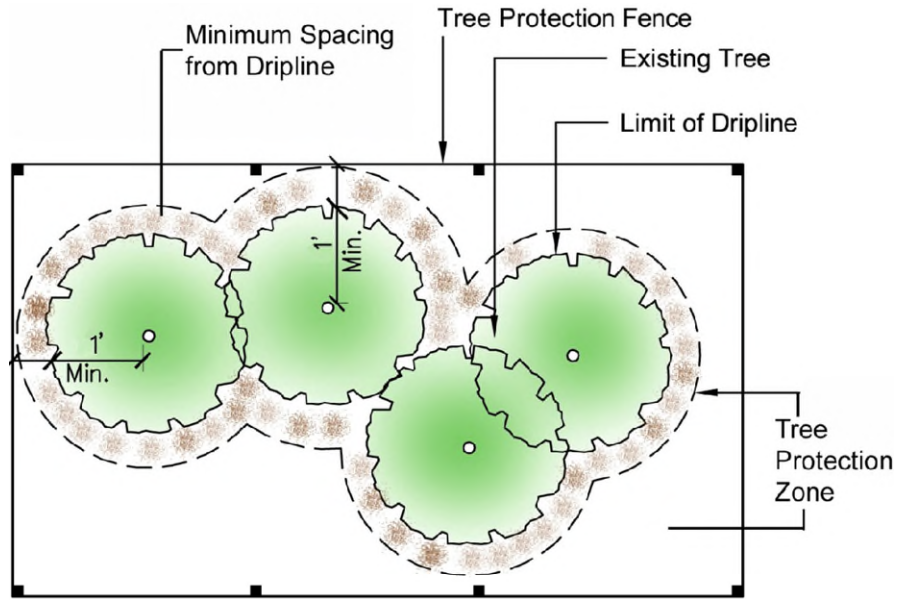
- (d) *Failure to mitigate violation.* Failure of any person having admitted or having been found responsible for a violation of subsection (a) to comply with the remedial permit or mitigation requirements of subsection (c) shall be unlawful and a violation of this Code. Each day of noncompliance past 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.
- (e) *Damage to specimen or historic trees due to pruning.* Any person having admitted or having been found responsible for damage, based on inspection by the City Forester, to a specimen or historic tree due to not complying with the acceptable pruning practices in Section 72.34, Pruning shall be a violation of this Code.

**Sec. 72.32. - Establishment of tree protection zone.**

Specimen or historic trees required to be retained by this Article shall be located within a tree protection zone established in accordance with the following standards.

- (a) *Establishment of tree protection zone.* A tree protection zone diagram showing the trees to be retained shall be submitted to the following requirements:
  - (1) *Timing.* A tree protection zone shall be established prior to any development or land disturbance (other than surveying).
  - (2) *Location.*
    - a. A designated tree protection zone shall be demarcated on the plan for development, as appropriate.
    - b. To the extent practicable, tree protection zones shall be located proximate to lot lines or site boundaries to ensure that retained trees will assist in limiting visual and auditory impacts from one form of development to another.
    - c. Tree protection zones associated with a single-family detached or duplex subdivision shall be located within open space or other unbuildable area, if practicable, and shall remain outside of all buildable lots.
  - (3) *Area within tree protection zone.* The tree protection zone shall incorporate the root zones and drip lines of all historic and specimen trees to be retained in accordance with this Section. (See Figure 72.1, Tree Protection Zones.)

**Figure 72.1: Tree protection zones.**



(b) *Protection during construction.* All specimen and historic trees 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:

- (1) All specimen and historic trees 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.
- (c) *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](http://www.treesaregood.com).

**Sec. 72.33. - 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 72.06 is strongly discouraged.
- (b) Trees and palms classified as invasive pursuant to Section 72.06 may be removed without a permit except where such tree or palm was required by an approved site plan or landscape plan.

**Sec. 72.34. - 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, unless additional branches are documented to be removed by the property's hazard insurance:

- 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.

(4) *Palm pruning.* Palms may be pruned periodically by removal of any brown fronds that hang below the 9 o'clock or 3 o'clock position. Palms shall not be over-pruned by subjecting them to hurricane pruning. The fruit stalks from certain palms may be removed for safety.

(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, as documented by the City Forester using industry pruning standards, 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 Article.

**Sec. 72.35. - 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 the City Code.