

Parks and Recreation Advisory Board

November 20, 2019 at 5:30 PM

Winter Park Community Center
721 West New England Avenue / Winter Park,
Florida



1: Consent Agenda

- a. Minutes Approval 1023.19
- b. 2020 Popcorn Flicks-Central Park

2: Action Items

a. Fast Start Management-Fee Waiver Application

Fast start Management is requesting an additional 25% fee waiver for their stadium rental

b. Tree Preservation & Landscape Ordinance Revisions

Seeking PRAB approval of Tree Preservation and Landscape Ordinance revisions. Ordinance will also be reviewed at Planning and Zoning Board prior to being taken to City Commission.

c. Winter Park Babe Ruth Field Repositioning Request

Winter Park Babe Ruth has requested that Field 6 be reoriented to allow for greater flexibility in its use amongst various age groups which will enable the league to meet the needs of their growing softball and baseball leagues.

d. Splash, Float, Swim Initiative and Dinner on the Ave

Introduction to proposed Splash, Float, Swim initiative that would make beginner level swim lessons available to all Winter Park children of Kindergarten age through partnership with schools and Winter Park YMCA. Request PRAB approval to increase Dinner on the Avenue table fee by \$50 (\$125 to \$175) with 20% of revenues being directed towards funding for the Splash, Float, Swim initiative. This would provide approximately \$6,000 of funding to help cover costs associated with the program and provide Dinner on the Avenue with a worthy cause.

3: Discussion

4: New Business

5: Staff Report

- **Parks/Landscaping Update**
- **Family Fun/Recreation Update**
- **WPHF 25th Anniversary Community Grant -\$50,000**

The Parks and Recreation Department was awarded a \$50,000 grant from the Winter Park Health Foundation. Grant funds will be used to continue improvements along the north side of Ward Park adjacent to Center for Health and Well Being and Ward baseball field parking/entry.

6: Adjourn

Appeals and Assistance

"If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." (F.S. 286.0105)

"Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office (407-599-3277) at least 48 hours in advance of the meeting."

Meeting Protocol

The protocol described below is used to conduct an orderly meeting of the Parks and Recreation Advisory Board. It is the Chair's option to follow or deviate from these guidelines during any meeting of the Board.

- Agenda item is brought up by Chair;
- Chair recognizes the staff for department input;
- Staff will present the item and state department recommendation if appropriate;
- The staff or Board Chair may recognize the individual or group requesting the action and present the opportunity to address the Board and present the details of their request. This presentation should be brief (3-5 minutes)
- The Chair will recognize the Board members and provide an opportunity for questions from the item sponsor or department staff;
- The Chair will entertain any motion from the Board regarding the agenda item;
- Once the item has been motioned and received a second, the Chair will ask if there is any public comment about the issue. (Public comment comes before the Board discusses the motion.) Public comment will be held to 3 minutes each;
- The public comments are closed by the Chair once all citizens who wish to speak have been given an opportunity;
- The Chair will recognize the Board members for discussion of the motion. Any Board member may address a question to the sponsor, to the department staff or to a citizen if appropriate;
- Once there is no further discussion, or if the Question has been called (debated and voted affirmative), then the Chair will request the Board moves to a vote.



Agenda Item Summary

Minutes Approval 1023.19 -

Summary:

Background:

ATTACHMENTS:

Description

1023.19 Board Minutes

Upload Date

11/18/2019

Type

Cover Memo

**PARKS AND RECREATION
ADVISORY BOARD
October 23, 2019**

Chairman Carl Creasman called the meeting to order at 5:32 p.m. at the Winter Park Community Center in conference room D.

Advisory Board Members present:

Carl Creasman
Taylor Sacha
Chris Morrison
Bradley Doster
Renee Maloney

Staff present:

Jason Seeley
Ron Moore
Kesha Thompson
Cathleen Daus
Tim Egan
Jeff Marcum-PD

Advisory Board Members absent:

Brian Furey
J Matthew Knight
Drew Nasrallah

Staff absent:

Guests:

Commissioner Cooper

Consent Agenda:

a) Minutes Approval 0925.19

Carl Creasman gained consensus from the board to approve the consent agenda.

Action Item

Discussion

Commissioner Cooper presented the board with a power point presentation that was presented at the City Commission Meeting to go forward with the idea of continuing the process to obtain the post office property.

New Business

City of Winter Park Welcome Sign

Holiday Meeting Dates

Goals & Capital Projects Meeting Dates

Staff Report

- **Project Update**
- **Recreation/Family Fun Update**

Next Meeting – November 20, 2019 @ 5:30 p.m., Winter Park Farmers' Market

The meeting adjourned at 6:27 pm

Kesha Thompson

Kesha Thompson
Recording Secretary



Agenda Item Summary

2020 Popcorn Flicks-Central Park -

Summary:

Background:

ATTACHMENTS:

Description

2020 Proposed Popcorn Flicks

Upload Date

11/12/2019

Type

Cover Memo

2020 Proposed Popcorn Flicks- Central Park

January 9 – rain date Jan 23

February 6 – rain date Feb 20

March 12 – rain date Mar 26

April 16 – no rain date due to Florida Film Festival

May 14 – rain date May 28

June 11 – rain date June 25

July 9 – rain date July 23

August 13 – rain date August 27

September 10 – rain date September 24

October 8 – rain date October 22

November 5 with a rain date of Nov 19 OR Nov 12 - no rain date as Nov 26 is

Thanksgiving

December we assume you want this on the Tree Lighting night which if keeps to usual schedule would be December 4 and because Park gets busy no Rain Date.



Agenda Item Summary

Fast Start Management-Fee Waiver Application - Fast start Management is requesting an additional 25% fee waiver for their stadium rental

Summary:

Background:

ATTACHMENTS:

Description

Fast Start Management-Fee Waiver App

Upload Date

11/18/2019

Type

Cover Memo

Fee Waiver Application



Parks & Recreation
department

In order to be eligible for a fee waiver up to a maximum 50%, the applicant must meet all of the following criteria:

- | | | |
|--|-------------------------------------|--------------------|
| 1. Non Profit Organization with current exemption. | <input checked="" type="checkbox"/> | Attach Certificate |
| 2. Organization based within corporate limits of Winter Park. | <input checked="" type="checkbox"/> | |
| 3. The event is not in support of a candidate for public office. | <input checked="" type="checkbox"/> | |
| 4. The event benefits the city and its residents. | <input checked="" type="checkbox"/> | |
| 5. The event type is consistent with the city's recreation plan. | <input checked="" type="checkbox"/> | |

Mission Statement: to enhance the quality of life for our community by providing outstanding parks, recreational facilities, activities and service.

Note: The nature of the applicant's event may impact level of fee waiver. (i.e. events at which an admission is charged or that are sponsored may experience fee waiver limits and or incur hard costs for events.)

Section One - Applicant Information

Applicant Name:	Scott Millson	Email Address:	
Organization Name:	Fast Start Management	Phone Number:	
Address:	1145 Whitesell Dr	Fax Number:	
City:	Winter Park, FL	State:	FL
		Zip:	32789
Tax Exempt Number:	Attach Letter of Exemption from the Internal Revenue Service: 85-801370752C-7		
Organization Mission:	Foster a love of running and promote a healthy lifestyle for the children of our community.		
Reason for request:	We are a very small non-profit. We rely 100% on donations from local businesses and foundations. We do not charge any entry fee to participate.		

Section Two - Event Information

Event Type:	Track and Field Meet	Event Date:	1/25/20
Event Name:	Fast Start Track & Field Invitational	Event Hours:	7am - 2:30 pm
Venue:	Shawnee Field	Expected Attendance:	1,000
If charging admission, proceeds benefit:	N/A	Event Admission Fee:	\$0.00
Will sponsorships be sold? If yes, describe levels and pricing:	Gold - \$1,000 ; Silver - \$500 ; Bronze \$250		
Will vendors such as caterers, decorators, entertainment be hired? If yes, describe below and list costs.	N/A		
** If there is onsite cooking, an additional permit is required			
Has this event been held previously? If yes, describe when/where:			

Section Three - Instruction

- Prior to submission of fee waiver/reduction application, venue must be reserved and deposit on file. Additional rules apply.
- This application is for waiver/reduction of fees only and does not apply to deposit which is required for all sites.
- Submit application for fee waiver/reduction to the Administrative Office of the Parks and Recreation Department.
- To allow appropriate time for consideration, applications must be submitted no less than ninety (90) days in advance.
- Applications will be reviewed by the Department Director with final decision by the Parks and Recreation Board.

By signature below, applicant acknowledges receipt of rules and regulations appropriate to the request venue. This application for fee waiver does not secure the date or the venue. All normal reservation procedures must be met prior to submitting this application for waiver including but not limited to submission of deposits, signing of reservation contract. Denial of the waiver request does not impact the policies of the venue for deposit retention or payment of rental fees. Misrepresentation of the group or type of event may result in revocation of the fee waiver after the event at which time payment if full will be required.

Signature:		Date:	2/25/19
Print Name:	Scott Millson	Title:	Founder / Chairman

FOR OFFICE USE ONLY

Directors Signature:		Approved:	50 %	Disapproved:	
Date of Approval/Disapproval:	10-31-19				
Parks Board Review If Necessary:	Date 11-20-19	Approved:	25 %	Disapproved:	



Agenda Item Summary

Tree Preservation & Landscape Ordinance Revisions -

Seeking PRAB approval of Tree Preservation and Landscape Ordinance revisions. Ordinance will also be reviewed at Planning and Zoning Board prior to being taken to City Commission.

Summary:

Background:

ATTACHMENTS:

Description

Revision Ordinance Tree Summary (DRAFT)

Tree Preservation Ordinance (DRAFT)

Upload Date

11/18/2019

11/18/2019

Type

Cover Memo

Cover Memo

DIVISION 6. – TREE PRESERVATION AND PROTECTION

58-281:

Minor text revisions to clarify purpose and intent

58-282:

Definitions added and revised as needed for clarification of terms used in the ordinance

58-283:

Language revised and/or added to clearly define the role/authority of:

- Urban Forestry Division of the Parks and Recreation Department,
- Building and Permitting Services Department,
- Code Compliance Board – Oversight of the appeals process (violations, fines, mitigation and other remediation
- Parks and Recreation Advisory Board - Oversight of policy documents used to implement this ordinance (Tree Planting Guide and Urban Forestry Management Plan)
- Planning and Zoning Board – Oversight of any proposed revisions to the City's Land Development Code

58-284:

Permitting process revised as needed to clarify regulated vs. exempt trees

58-285:

Revisions to clarify the process used to evaluate the condition of trees

58-286:

Revisions to clarify the permit application process, removes allowance for tree removal of previously denied requests following appeal and waiting period

58-287:

Revisions to clarify the mitigation process (tree replacement and/or financial compensation)

58-288:

Added language to facilitate removal of plant lists and other text not integral to the ordinance to a separate policy document(s) (Tree Planting Guide and Urban Forestry Management Plan)

58-289

Revisions to tree fund oversight (Parks to City Manager)

58-290:

Revisions to clarify party or parties responsible for enforcement costs, fines and fees

58-291:

Revisions to clarify procedures for tree banking

58-292:

Revisions to clarify tree protection standards during construction

58-299:

Creates an Arboricultural Services Vendor Permit

58-300:

Revisions to language related to penalties for violations and the process for collection of past due fees

58-301:

Related to establishing enforcement authority, moves language related to failure to remove hazardous trees or branches to 58-300

58-302:

Establishes revised process for appeals of permit decisions and conditions, fines, fees and violations

58-303:

Identifies the city's rights under state law to pursue remedies related to enforcement actions in this Division

58-304-58-320: Reserved

DIVISION 8. LANDSCAPE REGULATIONS

58-331:

Clarifies purpose and intent

58-332:

Definitions added and revised as needed for clarification of terms used in the ordinance

58-333:

Adds mulch restriction

58-334:

Adjusts general provisions related to tree selection, planting and spacing on new construction, renovation or expansion

58-335:

Revises tree preservation, replanting and spacing specifications for one and two family dwelling properties

58-336:

Revises landscape specification, tree preservation, replanting and spacing specifications for non-residential and multifamily properties

58-337:

Revises requirements related to the condition landscape materials installed on non-residential and multifamily properties

58-338: Not included in draft (revise?)

58-339:

Clarifies requirement that trees defined as “protected” be included on all landscape plans prepared under the provisions of this Division

58-340:

Revises text related to prohibited plant species and moves plant lists and other text not integral to the ordinance to a separate policy document(s) (Tree Planting Guide and/or Urban Forestry Management Plan)

58-341:

Related to establishing enforcement authority, moves language related to failure to remove hazardous trees or branches to 58-300

58-342:

Revisions to clarify party or parties responsible for enforcement costs, fines and fees

58-343:

Establishes revised process for appeals of permit decisions and conditions, fines, fees and violations

58-344:

Identifies the city’s rights under state law to pursue remedies related to enforcement actions in this Division

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING ARTICLE V, DIVISIONS 6 AND 8 OF CHAPTER 58 OF THE LAND DEVELOPMENT CODE CONCERNING TREE PRESERVATION AND PROTECTION AND LANDSCAPE REGULATIONS; PROVIDING URBAN FORESTRY, TREE, AND LANDSCAPE REGULATIONS, REQUIREMENTS, PERMIT AND MITIGATION PROCEDURES, AND SETTING FORTH RELATED FEES AND PENALTIES; CLARIFYING AND AMENDING THE AUTHORITY OF THE URBAN FORESTRY DIVISION AND OTHER CITY DEPARTMENTS; PROVIDING SUPPLEMENTAL COMPLIANCE METHODS ENSURING OBSERVANCE OF TREE AND LANDSCAPE REGULATION, REPLACEMENT, MITIGATION, MAINTENANCE, AND BEST PRUNING AND PLANTING PRACTICES; PROVIDING A LIEN AND FORECLOSURE COMPLIANCE AND FEE COLLECTION OPTION FOR UNPAID PENALTIES FOR VIOLATIONS; PROVIDING FOR PERMIT, STOP WORK ORDER, AND PENALTY APPELLATE REVIEW PROCESSES AND PROCEDURES BEFORE THE TREE PRESERVATION BOARD; ESTABLISHING A COMMERCIAL PRUNING PERMITTING PROCESS AND PROCEDURES; ADOPTING THE CITY OF WINTER PARK URBAN FORESTRY PLANT GUIDE; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Winter Park (the “City”) recognizes the importance of increasing and maintaining the landscaping and tree canopy within the City and that the City contains many species of native and non-native trees and vegetation of significant size and quality that contribute in a positive way to the environment and City aesthetics; and

WHEREAS, the City recognizes that properly maintained trees and landscaping increase property values, filter air pollutants, maintain the natural ecology, temper the effects of extreme temperatures, reduce runoff, prevent erosion of topsoil, and otherwise help create and maintain the distinct identity and visual character of the City; and

WHEREAS, the City finds that the wanton and wholesale destruction of trees or utilization of improper pruning or trimming practices, in addition to improper landscaping installation and planting, could impair scenic beauty, cause erosion, reduce property values, increase the cost of construction and maintenance of drainage systems, or lead to other detrimental effects to the public’s health, safety, and welfare; and

WHEREAS, the City has deemed it necessary to clarify existing regulations and to provide additional revisions necessary to the City’s tree preservation regulations and procedures and the City’s landscaping regulations and procedures to promote community welfare and safety in reasonable regulations relating to planting, pruning, removal, and replacement of trees and

landscaping as well as ensuring proper care and treatment of private and City trees and landscaping comprising the City's urban tree canopy and flora; and

WHEREAS, the City desires to enact centralized processes and authority concentrated in the Urban Forestry Division and its expertise in the subjects of landscaping, tree regulation, proper pruning and management practices, and familiarity with the City's urban tree canopy and flora; and

WHEREAS, the City determines that the protection of the City's urban tree canopy and landscaping combined with recurring violations of landscaping regulations and requirements and tree regulations and requirements necessitates that the City explore alternative and cumulative lawful enforcement options to maintain the City's policies set forth herein and in dedication to maintaining an urban forest that is nationally recognized; and

WHEREAS, the City desires to clarify and streamline its appellate review processes and procedures regarding landscaping decisions and determinations, tree permit decisions, issuance of stop work orders, determinations of violations, and fines assessed relating to tree preservation and landscaping within the City; and

WHEREAS, the City finds that a permitting process and procedures are required for commercial pruning occurring within the City for the protection of and in the best interests of the residents and businesses of the City and to ensure that the goals and policies of the City's tree preservation and protection regulations are met or exceeded; and

WHEREAS, in accordance with section 163.3174, Florida Statutes, and section 58-3 of the City Code of Ordinances, the City's local planning agency, which is the designated planning and zoning board, has reviewed and made recommendations as to the amendments set forth herein;

NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER PARK, FLORIDA:

SECTION I: RECITALS. The above recitals are true and correct, are adopted and incorporated herein, and constitute the legislative findings of the City Commission of the City of Winter Park.

SECTION II: That Article V, Division 6 of Chapter 58 of the Land Development Code of the City Winter Park regarding Tree Preservation and Protection is hereby amended to read as follows (~~struckout text~~ indicates deletions; underlined text indicates additions; and non-referenced sections shall remain unchanged):

DIVISION 6. - TREE PRESERVATION AND PROTECTION

Sec. 58-281. - Purpose and intent.

In recognizing that trees benefit the city by decreasing urban noise and air pollution, conserving energy and soil, minimizing flooding, providing food and cover for beneficial urban wildlife and providing value and stability to business and residential neighborhoods, and

recognizing that most species of trees require at least two decades of growth to begin to exhibit such beneficial qualities, it is the intent of this division to establish policies, regulations and standards necessary to ensure that the city, which has been declared a "Tree USA," "**Tree Growth,**" and "**Tree Line USA,**" will continue to realize the benefits provided by its urban forest. The provisions of this division are enacted to:

* * *

- (6) Preserve the community's character and quality of **life by promoting sustainable development, green infrastructure, and preserve and maintain urban forestry canopy coverage now and for future generations**~~well into the future.~~

Sec. 58-282. - Definitions.

For the purposes of this division, certain terms or words used herein shall be interpreted as follows:

* * *

DBH (Diameter at breast height) shall mean a standard measurement of a tree ~~trunk~~ diameter as measured at a predetermined point of measurement, ~~which is. Trunks of existing trees shall be measured at dbh,~~ **four and one-half (4½) feet above the soil line. Trunks of existing trees shall be measured at DBH. If the tree forks below DBH, then the tree is considered a separate tree. If the tree forks above DBH, then it is considered one tree (one measurement)**~~For multi-trunked trees the dbh shall mean the cumulative diameter of the two largest trunks.~~

* * *

Exempt trees are trees that do not require a permit for removal ~~(see list in subsection 28-284(a)).~~ Exempt trees may not be used to calculate required canopy and may not be used as replacement trees.

Historic tree shall mean any protected tree with a DBH of 36" or greater with specific size and age requirements that are species specific as set forth in the Urban Forestry Plant Guide, or a tree that has special or exceptional documented historic and aesthetic value relative to the community, state, or nation.

Major root is any root that is one-fifth or larger than the size of a tree's trunk measured at **DBH**~~dbh.~~

Protected tree shall mean any self-supporting woody or fibrous perennial plant of a species that normally grows to a mature height of 25 feet or greater and has a tree trunk **DBH**~~dbh~~ of nine inches or greater and is not an exempt tree. The term "protected tree" shall also apply to any

replacement tree, any non-exempt tree that is represented in a planning document for the purposes of securing an approved building or demolition permit and all trees on city property.

Pruning shall mean removing or reducing tree limbs to benefit the overall health and safety of a tree. Pruning shall be done according to current standards established by the National Arborists Association (NAA), the International Society of Arboriculture (ISA), ~~and~~ the American National Standards Institute (ANSI) A-300, and the Best Management Practices for Tree Protection (BMPs).

* * *

Root Protection Zone (rpz) shall mean the area that is required to be protected to ensure the survival of the tree.

Root zone shall mean the area starting from a tree's trunk ~~to~~ equal to a minimum distance of 2.5 ~~times~~ a tree's drip-line.

Shade tree is a tree that typically reaches a height of over ~~25~~30 feet and has an average ~~DBH~~~~dbh~~ of nine inches or larger. Shade trees are listed within the Urban Forestry Plant Guide (see section 58-288).

Size shall mean as determined by a tree's ~~DBH~~~~dbh~~ or caliper as defined in this section.

Specimen tree generally refers to any protected tree species with a DBH of 18" or greater and any shade tree of 18" DBH or greater. Notwithstanding the preceding, some tree species are considered specimen trees when they reach a smaller diameter depending on the physical characteristics of, vigor, and vitality of the individual tree as determined by the Urban Forestry Division, which includes but is not limited to, any medium tree of 12" DBH or greater and any understory species of 8" DBH or greater. Specimen trees, including breakdowns, are listed within the Urban Forestry Plant Guide.

Urban Forestry Division refers to a division within the Parks and Recreation Department

* * *

Sec. 58-283. - Establishing duties and authority.

(a) **The Urban Forestry Division of the** Parks and recreation department. The **Urban Forestry Division** ~~parks and recreation department~~ is delegated the following authority:

- (1) To jointly work with the building and code ~~compliance~~~~enforcement~~ department in administering the provisions of this division including, but not limited to, technical and advisory support.

(2) To waive or modify all or some of the requirements of this division in the case of a hurricane, tornado, severe rainstorm or other emergency.

(3) To regulate and supervise ~~trimming~~**pruning** or removal of trees in the public right-of-ways and on city property. ~~(See sections 58-297—58-299)~~

~~(b) Building and code enforcement department. The building and code enforcement department is delegated the following authority:~~

~~(4)~~ To require that a tree removal permit be obtained with, building, demolition, site development, foundation work, and other construction activity permits, where removal of a protected tree is requested.

~~(5)~~ To process and evaluate tree removal permit applications ~~for compliance with this division.~~

~~(6)~~ To place conditions on the issuance of construction, demolition or other land development permits when recommended as a condition of a tree removal permit approval by the **Parks and Recreation Department** ~~tree preservation board, or by~~ planning and zoning board or the city commission.

~~(7)~~ To require certain site plan criteria and photographic documentation be included with issuance of a building permit **that** must include an accurate site plan and clear photograph(s) of existing tree(s) on site in accordance with subsection **58-286(b)(1)d.**

~~(8)~~ To issue a stop work order at a site if unauthorized tree work **or pruning** is occurring.

~~(9)~~ To require immediate removal of any protected tree that is determined to be dead, **diseased, declining,** or ~~beyond recovery or~~ hazardous ~~and to allow the arborist code enforcement officer to determine compensation if any.~~

(10) To periodically conduct educational programs and/or publish educational and informational materials as to the importance of trees and tree preservation to the city and as may be related to the requirements of this division.

(11) To recommend the modification of building plans and/or that the applicant for a tree removal permit petition the board of adjustments for a variance in order to preserve protected trees, as long as the modification does not result in a violation of applicable zoning or building codes.

(12) To waive up to a maximum of five parking spaces in multi-family residential and non-residential parking lots for the purposes of preserving existing protected trees.

(b)(7) Building and Permitting Services Department. The Building and Permitting Services Department is delegated authority to grant a building setback encroachment up to a maximum distance of ten feet into a required setback area in order to preserve a protected tree based on the need for the relocation of the proposed building or addition to accomplish tree preservation and as **administratively** approved by the building ~~and code enforcement~~ official. The city shall require a letter of approval from the affected abutting property owner(s) as a condition of approving the setback encroachment. Criteria for granting a variance as listed in section 58-88 of this Code shall also be considered when reviewing the proposed setback encroachment.

Additionally, the Building and Permitting Services Department and Urban Forestry Division shall determine reasonable mitigation exceptions or alternatives, if any, to be awarded based on green initiatives supported by sustainable development and green infrastructure when vegetation cannot be preserved on a development property. Such reasonable mitigation exceptions or alternatives shall be based upon the degree to which such sustainable development and green infrastructure efforts and expenditures conserve and protect natural resources, promote responsible environmental stewardship, and otherwise are consistent with the purpose and intent of this division.

The Building and Permitting Services Department and Urban Forestry Division shall also, to the greatest extent possible, require that building footprints, driveways and roadways, sidewalks, stormwater management facilities, and other site development standards and requirements be designed to protect the maximum practical number of specimen trees and historic trees as is possible. During the subdivision platting process, lot lines shall be shifted to ensure the protection of the maximum practical number of specimen trees and historic trees as is possible.

(c) Planning and zoning board and city commission.

By their inclusion in the Land Development Code, proposed revisions to the Tree Protection ordinance or the Landscape Ordinance must go to the Planning and Zoning Board for a recommendation, before being heard by the City Commission.~~Any protected trees approved for removal or protection by the planning and zoning board or city commission shall not subsequently need approval from the city or the tree preservation board except for the administrative processing of a permit to verify approval by the respective board or commission. Prior to granting any tree removal request on appeal or otherwise, if the tree preservation board rendered any decision with regard to tree removal or protection on a property that later comes before the planning and zoning board or city commission, then that decision and related information of that decision shall be transmitted in writing to the respective commission.~~

(d)~~Tree preservation~~ **Parks and Recreation Advisory Board.**

The Parks and Recreation Advisory Board shall make recommendations to the City Commission on proposed revisions to the Urban Forestry Plant Guide and the Urban Forestry Management Plan

~~(1) The tree preservation board is appointed by the city commission and will consist of seven members and one alternate, with one member each from the planning and zoning board, the board of adjustments, the parks and recreation board; and four citizens at large. All board members appointed by the city commission must be residents of the City of Winter Park. The director of parks and recreation and the building/code enforcement director shall serve as ex officio members. Members from the respective three boards shall be chosen by those boards.~~

~~(2) The term of each member shall be as provided in section 2-48, and the provisions in sections 2-46 through 2-49, and section 2-68 are incorporated herein by reference and shall control the operation and procedures for this board.~~

~~(3) Applicants for tree removal permits may appeal to the tree preservation board any denial of an application or any of the conditions attached to the approval of a tree removal permit as outlined in this division prior to any protected tree removal. The tree preservation board may affirm, reverse, or modify the decision of the director of parks and recreation or building and code enforcement department to deny an application or conditions of the permit application.~~

~~(4) The tree preservation board may recommend the modification of building plans and/or that the applicant petitions the board of adjustments for a variance in order to preserve protected trees, as long as the modification does not result in a violation of applicable zoning, or building codes, except as provided for in subsection 58-283(c).~~

~~(5) The tree preservation board may hear and decide appeals of tree removal applications denied and/or appeals of conditions of approval for approved tree removal permits.~~

~~(6) The tree preservation board may waive up to a maximum of five parking spaces in multi-family residential and nonresidential parking lots for the purposes of preserving existing protected trees.~~

~~(7) The tree preservation board may periodically conduct educational programs and/or publish educational material as to the importance of trees to the City of Winter Park and the requirements of this division.~~

Sec. 58-284. - Tree removal permits.

~~(a) *Exempt trees.* No permit shall be required to remove the following types of trees:~~

~~Citrus~~

~~Ear (Enterolobium species);~~

~~Camphor (Cinnamomum camphora);~~

~~Chinaberry (Melia-azedarach);~~

~~Mulberry (Morus species);~~

~~Cajeput punk or Melaleuca trees (Melaleuca-quinquinervia/leucadendra);~~

~~Palm;~~

~~Australian Pine (Casuarina species);~~

~~Australian Silk Oak (Grevillea robusta);~~

~~Chinese Tallow (Spaium-sebiferum);~~

~~Brazilian Pepper (Schinus terebinthifolius);~~

~~Any tree with a dbh less than nine inches, as long as the tree was not planted as a replacement tree.~~

(a) Trees requiring tree removal permits. It shall be unlawful to cut down, destroy, improperly prune, remove, top, or move any protected, **specimen, historic**, or replacement tree, or to authorize the cutting down, destruction of, removal of, topping of, moving of, or damage to, any protected, **specimen, historic**, or replacement tree within the city, without prior issuance by the city of a tree removal permit approving the act or acts, or a removal authorization by the city, as further described in this division; ~~provided, however, that these requirements do not apply to trees specifically designated as exempt from this division in section 58-284.~~

The requirements of this subsection may be suspended during a declared emergency to restore order within the city and ensure the public health, safety, and welfare. Replacement requirements in the event of a declared emergency shall be determined on an individual site basis.

(b) ~~Exception:~~ Exempt trees: Tree removal permits are not required.

Trees that have been evaluated by the arborist for the Urban Forestry Division and which meet any of the conditions below shall not require a tree removal permit.

~~The removal of p~~**Protected trees that fail or portions of protected trees which fail, the removal of limbs of protected trees which have fallen due to acts of nature or other events through no fault of the owner such as storms, named or un-named weather events, fire, or insect or disease infestations declared by the state of Florida** ~~or natural decay shall not require a tree removal permit.~~

For all properties, any protected trees, excluding those exempted in the Urban Forestry Plant Guide subsection 58-284(a) or (b), shall not require a permit prior to removal.

~~Removal of any p~~ Protected trees that ~~is~~ **are** determined to be dead, **diseased, declining, beyond recovery** or hazardous by the city not shall require a tree removal permit, ~~except as provided herein. In case of an emergency a tree may be removed as authorized by the city. (See section 58-283)~~

Protected trees that meet the exemption criteria in the State of Florida HB 1159

Sec. 58-285. - Criteria for evaluating the condition of trees ~~issuance of tree removal permits.~~

(a) **The property owner or his/her agent may request a tree evaluation for a fee of an amount established by the city commission. The condition of the tree will be determined** on the basis of the following criteria:

- (1) The **vigor and vitality**~~health~~ of the tree, i.e. whether the tree is deemed dead, **diseased, declining, or beyond recovery, deteriorated** or hazardous.
- (2) The topography of the land and the effect of the tree removal upon erosion, soil retention and the diversion or increased flow of surface waters.
- (3) The number, species, size, location and canopy of existing trees in the area and the effect the removal would have upon shade, sunlight, privacy, scenic beauty, wildlife, noise, air quality, wind, health, safety, prosperity, historic values and general welfare of the area and the **city** as a whole.
- (4) Whether structural improvements **of any kind** have been designed and located to minimize the removal of protected trees.
- (5) The denial of the permit would create an unreasonable hardship on the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly zoned and situated properties. A minor reduction of the potential number of residential units, **building location** or building size due to **protected** ~~the~~ tree locations does not represent a severe limit of the economic enjoyment of the property.
- (6) The applicant has demonstrated to the satisfaction of the city that there are no reasonable alternatives to preserve the tree(s).
- (7) Such other criteria or factors as the city deems to be reasonable under the circumstances.

~~(b) No tree removal permit or other removal authorization as provided in this division may be issued for an historic tree without a written determination by the city that said tree is dead, or beyond recovery, hazardous, or deteriorated. However, denial of a tree removal permit or removal authorization for a historic tree may still be appealed by the property owner(s) as provided in this division in subsection 58-286(d).~~

Sec. 58-286. - Tree removal permit procedure.

It is the property owner and applicants' responsibility to research the Tree Preservation Ordinance and other city regulations regarding tree protection within the city. Each application for a tree removal permit shall be reviewed and a decision rendered on approval or denial (in whole or in part) on the **results of an evaluation by the arborist for the Urban Forestry Division.**

(a) *When no construction or demolition is involved.* Applications for tree removal permits shall include:

- (1) A **completed** tree **evaluation**/removal permit **application form** ~~fee of an amount established by the city commission; and~~
- (2) An accurate site plan drawn (hand-drawn site plan may be acceptable) to scale indicating which protected tree(s) are proposed to be removed, depicting the location, common or scientific names, and size **(DBH)**.
- (3) All protected trees petitioned for removal are to be marked on site in a harmless way and noted accordingly on the site plan; ~~and-~~
- (4) Application forms may also request information regarding reasons for tree removal and other specifics as determined by the city.

(b) *When construction or demolition involving other permitting is involved.*

(1) In addition to the requirements of subsection 58-286(a), applications arising out of new building construction, demolition permits or renovations requiring construction permits shall include an accurate site plan drawn to scale indicating the square footage of the site, the square footage of the proposed building area, the square footage of the existing tree canopy and the square footage of the tree canopy requested for removal. The site plan shall depict any proposed grade changes and a plan view of actual protected tree(s) and protected tree canopies on site including:

- a. The property lines and footprint of existing structures, **as well as proposed building footprint, drive apron, and accurate tree survey are required;** and
- b. The existing and proposed grades;
- c. Proposed additions to existing buildings, proposed new buildings, structures, and other impervious surfaces, such as but not limited to sidewalks, pool decks, driveways parking areas, storm water retention areas, overhead, and underground utilities, and other physical improvements.

d. A photographic survey and record of all protected trees on the site taken at ground level (from multiple angles) with the trees proposed to be removed, clearly marked and indicated on the photographs, depicting existing conditions.

e. Building footprint corners, property corners, drive aprons, and sidewalks must be staked or indicated both on the site plan and in the field prior to submittal of a tree removal permit application, demolition application, or other permit applications. The trees must be indicated on the site plan and in the field. Flagging is required as paint is not accepted marking practice.

(2) Incomplete or incorrect applications that require additional site visits shall require an additional fee ~~equal to the original permit fee~~ for each subsequent visit, **and all applications are reviewed in the order received.**

(c) No tree removal permit or other removal authorization as provided in this division may be issued for an historic tree without a written determination by the Urban Forestry Division ~~city~~ that said tree is dead, diseased, declining, or hazardous.

~~(d)~~ *Removal voids appeals process.*

(1) Removal of protected trees requested on the tree removal permit application is regarded as the applicant's acceptance of the conditions for removal as stated on the application and voids any appeals.

(2) Except in the event of an emergency, removal of a protected tree without a permit, except as allowed ~~herein under subsection 58-283(a)(2)~~, shall make void any appeals as provided in this division.

~~(d) Appeals.~~

~~(1) Upon denial of an application, or conditions placed thereon for a tree removal permit, the grounds for such action shall be given to the applicant in writing. Applicants may appeal the denial decision or specific conditions placed on the approval.~~

~~(2) Following the receipt of a written request to appeal a denial of a tree removal permit or a request to appeal conditions placed on the approval of a tree removal permit the tree preservation board shall consider the appeal within 30 calendar days or as soon as possible thereafter and make a final decision. The final decision of the tree preservation board shall be sent to the applicant by certified and regular mail within ten days.~~

~~(3) The applicant may appeal the decision of the tree preservation board to the city commission if a further appeal is filed within 15 days of the date of the decision by~~

~~the tree preservation board. The commission may reverse, modify or uphold the decision of the tree preservation board at its next available regular scheduled meeting or at a later meeting if requested by the applicant or the city.~~

~~(4) If the city commission upholds the decision of the tree preservation board to deny granting a tree removal permit, then the applicant may ultimately remove the subject tree(s) after a 60 day period and after notification of the intent to remove the subject tree(s) at the end of the 60 day waiting period in writing. Replacement compensation shall be provided in accordance with the replacement compensation required in subsection 58-287(2). Removal of subject tree(s) prior to the end of the 60 day period shall require the same compensation as an unpermitted tree removal. (See section 58-299).~~

(d) *Time for processing tree removal permit applications.*

(1) Notice of incomplete or inaccurate applications shall be given to the applicant within seven ~~business~~working days of the receipt of the application.

(2) Each application shall be approved, approved with conditions, denied, or returned to the applicant, requesting further action on the application within 14 ~~working~~business days of the receipt of a complete application.

(e) *Duration of tree removal permit.* Each tree removal permit shall remain in effect for one year from the date of issuance. If the action approved in the permit is not completed within the permit's effective date, a new tree removal permit must be obtained and the existing tree removal permit is void.

All conditions for removal, except financial compensation which is required at the time a permit is approved in accordance with subsection 58-287(e), are to be met within 30 days of the tree removal date unless an extension is documented on an approved permit. Extensions of no longer than one year from date of removal may be considered based upon hardship, unforeseeable weather conditions, or other conditions not the fault of or within the reasonable control of the permittee or its employees, agents, or those working on its behalf or at its direction~~on a case-by-case basis~~. Extension requests not included on an approved permit must be submitted to the city in writing to include an explanation of the reason for the extension. Compliance with conditions for removal must be confirmed by contacting the city for an inspection.

(f) *Transfer of tree removal permit.*

(1) A tree removal permit including all conditions may be transferred from the original permit holder to any subsequent property owner to which the permit pertains subject to the conditions of this section.

(2) Requests for transfer of a tree removal permit must be submitted to the city in writing, verifying that no conditions have changed on the property that would affect

the continued approval of the permit and must include all information (site plan, conditions, etc) related to the original approval of the permit.

(3) The property owner holding the tree removal permit is responsible for the transferring of the permit to the new owner and any transfer fees established by the city commission.

(4) The property owner holding the tree removal permit shall not be relieved of liability for the conditions of the tree removal permit unless the existing permit is cancelled by the city and a new permit is obtained.

(5) The new property owner is bound by all terms and conditions of the tree removal permit.

(g) Posting of approved permit. Approved tree removal permits are to be posted on site, legible and visible from the street prior to commencement and throughout completion of work.

Sec. 58-287. - Tree replacement and financial compensation requirements.

Conditions for approval of a tree removal permit shall include tree replacement, financial compensation or a combination of tree replacement and financial compensation. **A minimum of 50% of the mitigation requirements shall be mitigated through trees planted on said property where trees are being removed on commercial properties, new developments, or when more than 3 trees are being removed.**

Tree replacement may be made in the form of planting replacement tree(s) on the subject property or other property within city limits or public property with **Urban Forestry Division**-city approval in accordance with the following criteria:

(1) Tree replacement. Protected trees of any **DBH**~~dbh~~ requested to be removed because they are deemed to be dead, **diseased, declining,** or ~~beyond recovery,~~ hazardous, ~~or deteriorated~~ shall be replaced with one approved replacement tree **species** having a minimum ~~caliper of three inches (3")~~ caliper, FL #1 nursery stock. **The tree must be a shade tree if none exist on site.**

Protected trees requested to be removed and not deemed to be dead, **diseased, declining,** ~~or beyond recovery;~~ **or** hazardous, ~~or deteriorated~~ shall be replaced with ~~one~~-approved replacement trees ~~or trees~~ **and/or a combination of mitigation and replacement trees** as follows:

a. Replacement of protected trees **on commercial and non-residential sites and properties** shall require **tree** replacement **and/or a combination of trees and financial compensation to the Tree Fund equaling the total sum of the DBH measurement of trees being removed from the site. The minimum size requirement for replacement trees shall be 3" caliper for shade, medium, and understory species. All nursery stock must be FL #1.** ~~by one or two trees with~~

~~a dbh equal to or greater than three inches based on the caliper inch measurement of the tree to be removed. If the dbh of the tree to be removed is less than 19 inches, then one replacement tree is required to be replanted. If the dbh of the tree to be removed is 19 inches, then two replacement trees are required to be replanted.~~

Replacement of protected trees on residential sites and properties shall be required and assessed individually on a one for one basis and mitigation requirements are determined based upon the vigor, vitality, and species rating.

b. Replacement of specimen trees shall require tree replacement and/or a combination of trees and financial compensation to the Tree Fund equaling the total sum of the DBH measurement of trees being removed from the site. The minimum size requirement for replacement trees shall be a caliper of 4" for shade species, 4" for medium species, and 3" for understory species. All nursery stock must be FL #1.

c. Replacement of historic trees shall require tree replacement and/or a combination of trees and financial compensation to the Tree Fund equaling the total sum of the DBH measurement of trees being removed from the site. The minimum size requirements for replacement trees shall be a minimum caliper of 6" for shade species, 5" for medium species, and 4" for understory species. All nursery stock must be FL #1.

d. Multiple understory trees may be approved as replacement trees with a cumulative caliper of at least ~~six inches~~ 6" and shall be planted on the same property where the tree was removed as approved by the Urban Forestry Division.

ee. No single replacement shade tree shall have a caliper of less than 3", ~~three inches~~. No single replacement understory tree, if approved, shall have a caliper of less than ~~two inches~~ 2".

ef. If understory trees are approved as replacement, the caliper inches required shall be double that required when using approved shade trees (i.e., a single 3" shade tree is equivalent to three 2" understory trees).

ge. Any tree removed from property not zoned for one- or two-family dwellings that removes the property's compliance with the division 8 landscape regulations must be replanted on the same property.

fh. Replacement trees may count toward meeting the planting requirements of division 8, landscape regulations.

ig. All replacement trees shall adhere to the current guidelines established by the Florida Grades and Standards for nursery-grown trees and must be Florida ~~grade~~ #1 or better. Replacement trees shall be installed with their top main root one inch above the surrounding grade.

j. Replacement tree(s) shall be maintained and warranted to survive for a period of one year from installation. Trees not deemed to have satisfactorily survived shall be replaced with new tree(s) of the same size. Replacement tree(s) shall comply with the same maintenance and replacement warranty as the original replacement tree(s) and the warranty period will restart at the date of replanting. In the event that a tree planting is approved on public property or city rights-of-way, maintenance fees as established by the city commission may be assessed as part of the permit process.

k. Minor deviations regarding the required replacement trees in this section may be determined by **the Urban Forestry Division** ~~the city~~ based on the condition of the tree(s) being removed and other conditions that exist on the subject property. Minor deviations shall include considering any adjustments in the required tree replacement based on existing conditions on the property such as existing tree canopy coverage of the property, topography, space available for planting or similar criteria.

(2) Financial compensation. **Diameter** ~~Caliper~~ inches not planted as replacement trees are to be compensated by payment to the **Tree Fund** ~~tree replacement trust fund~~. Compensation shall equal the rate per **diameter** ~~caliper~~ inch set by the city commission in the schedule of fees multiplied by the ~~caliper~~ **diameter** inches of protected trees removed.

a. When more than one tree is permitted to be removed, the total DBH of the protected trees to be removed shall provide the basis for compensation.

b. Compensation is established in the schedule of fees and shall be dispersed per section 58-289 "~~Tree replacement trust~~ **Fund**".

c. A stop work order may be issued for any development or active construction project until all applicable permit compensation conditions are satisfied.

d. The certificate of occupancy or certificate of completion shall not be issued for any development until all applicable permit conditions have been satisfied.

e. A tree removal permit shall not be issued until the required financial compensation for removal is paid.

~~e. When more than one tree is permitted to be removed, the total dbh of the protected trees to be removed shall provide the basis for compensation.~~

Sec. 58-288. - Recommended shade, medium, and understory trees to used as replacement trees.

Urban Forestry Division recommended shade, medium, and understory trees for use as replacement trees are set forth in the Urban Forestry Plant Guide. Other additional species not referenced therein may be approved based upon consistency and compatibility

of the proposed trees with the most recent USDA Plant Hardiness Zone Map, the physical characteristics of the proposed trees, and the proposed trees' physical similarities to recommended replacement tree species set forth in the Urban Forestry Plant Guide.

~~Understory trees shall not be used as replacement trees except as indicated in section 58-287. Camphor (Cinnamomum camphora) trees shall not be used as replacement trees.~~

~~Note: Others approved on a case-by-case basis.~~

SHADE TREES

BOTANICAL NAME	COMMON NAME
Acer rubrum	Red Maple
Betula nigra	River Birch
Liquidambar styraciflua	Sweetgum
Magnolia grandiflora	Southern Magnolia
Quercus hemisphaerica	Darlington oak
Quercus laurifolia	Laurel oak
Quercus nigra	Water oak
Quercus phellos	Willow oak
Quercus shumardii	Shumard oak
Quercus virginiana	Live oak
Taxodium distichum	Bald cypress
Ulmus alata	Winged elm

~~UNDERSTORY TREES (For their limited uses see section 58-287)~~

BOTANICAL NAME	COMMON NAME
Aesculus pavia	Red buckeye
Cercis canadensis	Red bud
Chionanthus retusus	Chinese fringe tree
Chionanthus virginicus	Fringe tree
Cornus Florida 'Weavers White'	Weavers White flowering dogwood
Elaeocarpus decipiens	Japanese blueberry tree

BOTANICAL NAME	COMMON NAME
Hex cornuta 'Burfordii' tree	Burford holly tree
Hex cassinæ	Dahoon holly
Hex x latifolia	Luster holly
Hex vomitoria	Yaupon holly
Hex vomitoria 'Pendula	Weeping yaupon holly
Hex x 'Nellie R. Stevens'	Nellie R. Stevens holly
Lagerstroemia indica	Crape myrtle
Ligustrum japonicum tree	Ligustrum tree
Parkinsonia aculeate	Jerusalem thorn
Podocarpus macrophyllus	Yew podocarpus
Prunus campanulata	Taiwan cherry
Prunus umbellata	Flatwoods plum
Pyrus kawakamii	Evergreen pear
Viburnum obovatum	Walter's viburnum
Vitex agnus-castus 'Shoal Creek'	Shoal Creek chaste tree

Sec. 58-289. - Tree replacement trust fund.

(a) There is hereby created a tree replacement trust fund, which shall be referred to as the Tree Fund. All funds collected as tree replacement fees shall be administered by the City Manager or his/her designee ~~director of parks and recreation or designee~~.

* * *

Sec. 58-290. - Responsibilities for costs, fees or fines.

(a) Any agent, ~~or~~ representative, or person acting at the request of or direction of any property owner, including without limitation a contractor or subcontractor, who, in whole or in part, applies for a tree removal permit ~~on behalf of a property owner~~ or, who on behalf of a property owner removes a tree or otherwise violates this division of the code without appropriate permits or city approval, shall be ~~is~~ jointly and severally liable with the applicable property owner for resulting costs, fees, or fines. The city may pursue, in its sole discretion, one or more liable parties to recover said costs, fees, or fines. Additionally, in the city's sole discretion, the city is not required to name all liable persons or entities nor provide notice to all liable persons or entities unless otherwise required by Florida law.

(b) Any person or entity ~~who~~that is liable for unpaid costs, fees, or fines under this division is subject to the placement of a "stop work" order on any project within the city involving said person or entity until such time as the costs, fees, or fines are paid and such is certified as having occurred by the city. No person or entity who is liable for unpaid costs, fees, or fines under this division shall be entitled to obtain any other city permits or perform work under any other city permits until such time as the costs, fees, or fines are paid and such is certified as having occurred by the city. No person or entity who is liable for unpaid costs, fees, or fines under this division shall be entitled to obtain a certificate of occupancy until such time as the costs, fees, or fines are paid and such is certified as having occurred by the city.

(c) For purposes of this section, the city is entitled to and shall determine the real party or parties in interest when an entity is liable for a cost, fee, or fine, and the real party or parties in interest shall be subject to the sanctions in subsection (b), by way of illustration and not limitation, an individual who does business in more than one corporate or business name shall be considered the "real party in interest" for purposes of applying subsection (b) if any of that individual's entities have unpaid costs, fines, or fees under this division and both that individual and any of the individual's entities may be subjected to the sanctions in subsection (b) until such time as there are no longer any unpaid costs, fees, or fines with such satisfaction certified as having occurred by the city.

Sec. 58-291. - Tree banking.

To encourage voluntary tree replacement planting(s) there is hereby created a tree banking program. The ~~tree preservation board~~Urban Forestry Division may allow an applicant to plant three-inch caliper or larger approved shade tree(s) to compensate for future approved protected tree removal(s). Banked tree(s) are to be planted on the same lot from which future tree removal(s) is anticipated. Total ~~caliper~~DBH inch compensation will be calculated on the date of the tree removal. If the banked compensation is not sufficient to meet the conditions required for tree removal(s) additional compensations will be required until all conditions are satisfied. Tree(s) are to be Florida ~~grade #1~~ nursery stock or better and are to be measured according to the standards established in the definitions of this section. Trees must be thriving and in good condition as determined by the city, at the time of inspection which must be within 14 days of tree removal(s).

~~Furthermore-~~It shall be the responsibility of the applicant to maintain and present all necessary documentation required by the Urban Forestry Division ~~tree preservation board~~ in order to receive credit for any tree replacement as a required condition for tree removal(s).

Sec. 58-292. - Precautions and standards required during construction and other land development permits.

* * *

(d) Tree protection sign(s) shall be a minimum of two feet wide by three feet high consisting of a durable rigid, plastic or metal material with non fading lettering, legibly printed in characters a minimum of 1½ inches high on its face. Tree protection signs and barriers are to be maintained through job completion or to the satisfaction of the city. A minimum of one sign is

required per barrier. Sign text shall be included in English and Spanish, which shall read as follows: ~~and shall read:~~

Tree Protection ~~Zone~~Area

Prohibited within this area:

1. Parking or use of vehicles, equipment, trailers, or machinery.
2. Storage, spilling, or dumping of any chemicals, materials, or liquids.
3. Construction, excavation, grade changes, or trenching.

Área de Protección de Árboles

Prohibido dentro de esta area:

1. Estacionamiento ~~Aparcar~~ o uso de vehículos, equipos ~~equipamiento~~, remolques o maquinaria.
2. Almacenar, derramar, o tirar de productos químicos, líquidos, o materiales.
3. Construcción, excavación, cambios del grado, o zanjas.

(e) Unless prior approval is granted by city, the following activities are prohibited within the drip-line of a protected tree or within ten feet of its trunk, whichever is greater:

- (1) Parking or use of vehicles, equipment, trailers, or machinery;
- (2) Storing, spilling, or dumping any hazardous material or liquids; or
- (3) Construction, excavation, grade changes, or trenching.

(f) Permit/inspection boxes, wires, braces, nails, screws, bolts, chains, ropes, lights, antennas, flags, signage, banners, and other similar materials, shall not be attached to a tree in a way that the city determines to be injurious to the tree.

(g) The precautions required in this section may be modified or waived only in writing by the city.

* * *

Sec. 58-296. - Trees within right-of-way.

It shall be the duty of all owners of property encumbered or crossed by city right-of-ways, to keep trees within the city right-of-ways on the owner's property trimmed so that motor vehicle

and pedestrian traffic are not obstructed at intersections, points of ingress and egress, and/or sidewalks on the public right-of-ways. Where proper trimming is not maintained, the city may, after notifying the property owner responsible for the trimming, enter upon that property and perform the work necessary to comply with code. Upon performing such work, the city will charge the property owner for the actual cost and administrative costs as determined by the schedule of fees established by the city commission. Property owners are also responsible for trimming overhanging limbs within any city right-of-ways to a minimum height of eight feet over sidewalks and for a minimum height of 13½ above any public roadway.

Trees crossing the city right-of-way line onto private property are considered the adjacent property owners' responsibility for pruning. All pruning must be performed by a licensed vendor utilizing ISA BMPs and ANSI A300 pruning specifications under the direction of Urban Forestry Division staff.

Trees that fall from the city right-of-way onto private property are considered the adjacent property owners' responsibility once the tree reaches the point of crossing the property line.

Sec. 58-297. – Trees on city property.

It shall be unlawful to move, remove, or damage any tree of any size on city property except as part of official city business and operations.

The City of Winter Park shall have control of all street trees now or hereafter **located in or upon** any street, park, city right-of-ways or easements, or other public place within the city limits, and shall have the power to plant, care for, maintain, remove, and replace such trees.

Sec. 58-298. - Tree maintenance.

It shall be the duty of all owners of property encumbered or crossed by city right-of-ways on which trees of any size are growing to provide for the proper maintenance of such trees in the city right-of-ways encumbering or crossing their property.

(1) Maintenance shall be done under the direction and with the approval of the **Urban Forestry Division**~~city~~. Protected trees of any size on private or public property shall not be cut by **topping or over pruning and all pruning shall adhere to ANSI A300 and ISA BMPs.**

(2) Trees of all sizes shall be pruned as needed to maintain health and safety. Pruning shall retain the natural form of that tree species. All tree pruning shall be conducted according to the latest edition of the National Arborists Association (NAA) standards, the International Society of Arboriculture (ISA) standards, and the American National Standards Institute (ANSI) A-300 that are hereby incorporated by this reference. Trees deemed to be pruned beyond recovery as defined in section 58-282 shall be replaced as per applicable sections of this division.

Sec. 58-299. – Arboricultural Services Vendor Permit.

(1) *Prohibition.* No person, firm, company, corporation, or other entity may perform commercial pruning within the city without first obtaining a permit from the city. For purposes of this section, commercial pruning shall refer to any pruning performed by any firm, corporation, or other entity for pecuniary gain, which shall not depend on actual profit or loss, or any person or group of persons that advertises or solicits pruning services utilizing commercial grade pruning tools. Additionally, it is unlawful for any person, firm, company, corporation, or other entity, after notice from the city, to employ or continue to employ any person, firm, company, corporation, or other entity that does not hold a nonexclusive commercial pruning permit issued by the city.

(2) *Permitting process and requirements.* Each person, firm, corporation, or other entity desiring to perform commercial pruning services on either private or public lands within the city shall make application for a permit on forms provided by the city and shall provide, at a minimum, the following:

- a. Name and address of business;
- b. Name and address of owner of business;
- c. Corporate officers and directors and certificate of good standing;
- d. Permanent place of business;
- e. Copy of local business tax receipt;
- f. Description of equipment to be utilized;
- g. Copy of certificate of insurance;
- h. Attendance at mandatory training sessions provided by the city, if any;
- i. Applicable proof of training, experience, and references; and
- j. Executed agreement to comply with all conditions of permit and provisions of this article.

(3) *Term of permit.* The term of a nonexclusive permit to engage in commercial pruning services in the city shall be for one year or a partial year beginning on October 1 of each year. Each permit shall expire on September 30 of each year, but such permit may be renewed from year-to-year upon application, payment of permit fees, and a demonstration or submission of documentation that the permittee is in compliance with the terms of this section.

(4) *Permit fee.* A holder of a nonexclusive permit shall pay the permit fee of \$250.00 for each year or fraction thereof, which fee shall be paid on or before October 1, for

each year of renewal. The city commission may modify the permit fee by adoption of a resolution.

(5) Insurance. Each permittee shall maintain an insurance policy from a company acceptable to the city and licensed to do business in the state of Florida for a public liability and property damage in the amount of no less than \$250,000.00 per person and \$500,000.00 per accident, with \$250,000.00 property damage. All permittees and permit applicants shall be required to maintain workers' compensation insurance as may be required under Florida law. All permittees and permit applicants shall promptly provide proof of the insurance requirements herein to the city upon the city's demand. Failure to timely comply with the city's demand for proof of the insurance requirements herein or failure to maintain such insurance during the term of any commercial pruning permit shall constitute grounds for permit suspension or revocation.

(6) Equipment. All equipment operated by the permittee shall be in good repair and working order and shall be maintained in a sanitary and otherwise non-objectionable appearance at all times.

(7) Charges. Fees to be charged to those utilizing the services of any commercial pruning permittee on private property are strictly a matter of negotiation between the permittee and the user and will not be controlled or established by the city.

(8) Waiver. The permitting requirements of this section may be waived by the City Manager or his/her designee during declared states of emergency or to prevent imminent public safety hazards.

(9) Revocation and suspension of permit. Should any permittee be found, after notice and an opportunity to be heard, by the Urban Forestry Division, to be in violation of the terms and conditions of this section, then the Urban Forestry Division may suspend or revoke the permit and the right to reapply for same for a period of up to six (6) months. Repeat violations in any twelve (12) month period may result in suspension or revocation of the permit and the right to reapply for same for a period of up to one (1) year. Any permittee desiring to appeal such suspension or revocation shall follow the appellate procedures outlined in this division. In the event of any suspension or revocation pursuant to this subsection, the city reserves the right to verify that any and all permit applicants have not sought corporate name changes, fictitious name changes, or other methods of avoiding the provisions of this section. In such event, the city shall have the right to require a perspective permittee sign a sworn statement attesting that the perspective permittee is not a related entity to any firm, corporation, or entity that has previously or is currently subject to a permit suspension or revocation. If the city later determines such sworn statement to be untrue, the city shall have the right to immediately suspend or revoke any commercial pruning permit granted hereunder.

Sec. 58-~~299~~300. - Penalties for tree removal without required permit, hazardous conditions, or for tree damage; Collection of past due fees.

(a) Any protected tree(s) removed without a permit or destroyed or receiving major damage in the determination of the Urban Forestry Division in violation of this division must be replaced and/or compensated at the rate of twice the requirements of section 58-287.

(b) If no evidence exists on site to calculate the caliper inches of the tree(s) removed, then the tree shall be presumed to be a minimum of a 24"-~~inch (24)~~ protected specimen tree. It is the burden of the person or entity accused of a violation ~~property owner's responsibility~~ to prove otherwise.

(c) For repeat offenders the city has the right to double restoration requirements or fines (or both) for each subsequent infraction along with any other remedies set forth in this division or under Florida law, ~~and in the alternative or in addition to revoke or suspend a contractor's license to do business in the city.~~

(d) Failure to remove or otherwise make safe any hazardous or dead tree (protected or unprotected) shall constitute a violation of this division and may result in the city's giving of notice to the owner or the agent of the owner by certified mail or hand delivery an order to correct the violation by either removing the entire tree or hazardous limb(s) of the tree. Should the city's required remedial action not occur within ten (10) days from the giving of such notice to owner, then the city may, at its discretion, take the necessary action to remove the tree or hazardous limb(s) of the tree and assess all costs imposed by the city to the owner of the property plus an administrative fee as established under the city's schedule of fees as determined by the city commission. Where the full amount due the city is not remitted within ten (10) days from the date the city provides an invoice to the owner, then the city shall have the right to collect such fees in accordance with subsection (e). Notwithstanding the preceding, nothing provided in this subsection shall prevent the city from pursuing other legal actions set forth in this division or provided pursuant to Florida law to correct the violations described herein.

(e) In the event that the fees or fines imposed in accordance with this division are not paid when due for any reason, including but not limited to, mistake or inadvertence, the city shall have the right to collect such fees or fines as follows:

(1) The city shall serve, by certified mail-return receipt requested and regular U.S. Mail, a notice of non-payment upon the violator and the current owners of the property based on the ownership information appearing on the Orange County Property Appraiser/Tax Collector's website(s). Provided the city sends the notice of non-payment, the violator and/or current owner's failure to receive delivery of such notice of non-payment shall not invalidate or otherwise impact the city's ability to collect the outstanding amount owed through the recording of a lien, maintenance of foreclosure proceedings, or any other remedies provided by Florida law.

(2) The notice of non-payment shall contain:

(i) a description or address of the property upon which the violation occurred;

(ii) advise the violator and/or property owner of the amount due and the fee and/or charges that were not paid; and

(iii) advise that in the event the fees and/or charges are not paid within thirty (30) calendar days from the date of the notice of non-payment, that a notice of lien against the applicable property upon which the violation occurred may be recorded in the official records of the county and such notice of lien may be foreclosed upon by the city to collect the outstanding sums owed plus accrued interest and attorneys' fees and other collection expenses.

(3) If the amount set forth in the notice of non-payment is not paid within thirty (30) days from the date of the notice of non-payment, then the outstanding balance owed to the city shall accrue interest at the rate of twelve percent (12%) per annum until such amount is paid in full; the city may proceed to record a notice of lien against the applicable property in the official records of the county, which, once recorded, shall constitute a lien against the property described therein; and a copy of the notice of lien shall be served by U.S. Mail to the violator and the property owner at the same addresses as set forth in subsection (2) above.

(4) After the expiration of sixty (60) days from the date of recording of the notice of lien, a suit may be filed to foreclose said lien. Such foreclosure proceedings shall be instituted and prosecuted in conformity with the Florida statutory provisions regarding foreclosure proceedings and procedures. The city shall also have the right to bring an action for monetary judgment to collect past due amounts owed.

(5) The violator and the owner shall be responsible, jointly and severally, for and the city shall be entitled to reimbursement for the payment of all collection expenses and costs, including attorneys' fees and litigation costs and recording and filing fees, incurred by the city in the collection of fees and charges, filing of liens, and in actions to foreclose such liens or actions for monetary judgments.

(6) The collection and enforcement procedures set forth in this section shall be cumulative with and in addition to any applicable procedures provided in any other ordinance of the city, any applicable Florida law, or any agreement. Failure of the city to follow the procedures set forth in this section shall not constitute nor be construed as a waiver of the city's rights to proceed under any other ordinance of the city, in accordance with Florida law, or pursuant to any agreement.

Sec. 58-300~~1~~. - Enforcement and authority to enforce this division.

(a) **In addition to the supplemental compliance alternatives set forth in this division,** ~~The Urban Forestry Division city~~ shall provide interpretations, administration, and enforcement of the provisions of this division and shall be synonymous with and referred to as "the city" or "city" for references contained herein. ~~Appeals of decisions and determinations in the enforcement of this division shall follow the procedure as set forth in subsection 58-286(d) or as specifically addressed elsewhere.~~

(b) The city shall have the authority to stop work at a site if unauthorized tree work is occurring. Once a stop work order is issued, work shall not commence until the necessary permits have been issued and any applicable fine has been paid. **The city may also direct that the person or entity subject to a "stop work" order not perform additional work or services within the city until any violations as determined by the city have come into compliance and/or all applicable fines have been paid in full.**

(c) Failure to meet permit condition requirements for replacement within 30 days of the removal of the tree(s) shall require compensation, including administrative costs plus accrued interest at the rate of 12 percent per annum ~~filed as a lien upon the property and the provisions of section 102-135 shall apply.~~

~~(d) Violations for this division shall be subject to the following: Code enforcement actions or citations as per Class IV level citation as listed under Article II, Code Enforcement Citation, Section 1-23 "Classes of violations and penalties" and/or code enforcement board penalties of \$250.00 and/or \$500.00 per day and/or irrevocable fee of \$5,000.00 and remedial action to restore the property.~~

~~(e) Failure to remove or otherwise make safe any hazardous or dead tree (protected or unprotected) shall constitute a violation of this article and may result in giving notice to the owner or the agent of the owner an order to correct the violation by either removing the entire tree or hazardous limb(s) of the tree or the city will take the necessary action to remove the tree or hazardous limb(s) of the tree and assess all costs incurred by the city to the owner of the property plus an administrative fee as established under the city's schedule of fees as determined by the city commission. Where the full amount due the city is not paid by such owner or agent of the owner within 30 days after invoicing the owner for removing the hazardous or dead tree or limb(s) such charges shall be declared a lien on the property. In addition, nothing shall prevent the city from pursuing other legal courses of action to correct the violation including referring the matter to the code enforcement board. Appeals of an order to remove a tree or hazardous limb(s) of a tree will be heard by the tree preservation board and must be filed with the city within 30 days of receipt of notice or within 30 days of posting the property with a notice to remove the tree or hazardous limb(s). An appeal must include payment of required fee and provision of documentation verifying the health of the tree and any other information which will justify withdrawing the order to remove the tree or hazardous limb(s). Appeals of the decision of the tree preservation board on this matter shall be taken to the code enforcement board.~~

Secs. 58-302~~1~~—58-320. —Reserved. – Appeals relating to this division.

(a) *Violations, fines, fees, notices or orders for removal, and/or stop work orders.* Any person, business, or entity determined by the Urban Forestry Division to be in violation of this division may appeal the determination of any such violation along with the imposition of any fine, fee, notice or order requiring removal of hazardous or dead trees or limbs, and/or stop work orders imposed by filing a written request for appeal to the to The Director of the Parks and Recreation Department or their designees within fifteen (15) days of service of the Urban Forestry Division's written citation or notification relating to a violation of this division. The written request for appeal must contain a short statement of the grounds for the appeal. The Code Compliance Board shall hear the appeal within forty-five (45) days after the filing of the written request for appeal, and the Code Compliance Board shall give notice of the hearing to the appellant and The Director of the Parks and Recreation Department or their designees. The appellant shall pay to the city a fee prescribed by the city commission to cover the administrative costs of such appeal.

The Code Compliance Board may reduce or waive the penalties or fees imposed based upon the appellant's presentation of evidence and testimony relating to the absence of a violation, any efforts taken to correct the violation(s) in a timely manner, the gravity of the violation(s), and any previous violations committed by the appellant within the preceding twelve month period. The Director of the Parks and Recreation Department or their designees shall also be permitted a reasonable opportunity to present its own evidence regarding the reasonableness of any fees or penalties imposed and to rebut any evidence or argument presented by the appellant. The rules of evidence shall not apply to the appellate proceeding, but the proceeding shall comport with principles of procedural due process and fundamental fairness.

(b) *Tree removal permits.* Applicants for tree removal permits may appeal to the Code Compliance Board any denial of an application or any of the conditions attached to the approval of a tree removal permit as outlined in this division prior to any protected tree removal. Such appeal shall be initiated by filing a written request for appeal to the Urban Forestry Division, within fifteen (15) days of notification of the denial or imposition of conditions. The written request for appeal must contain a short statement of the grounds for the appeal. The Code Compliance Board shall hear the appeal within forty-five (45) days after the filing of the written request for appeal, and the Code Compliance Board shall give notice of the hearing to the appellant and the Urban Forestry Division. The appellant shall pay to the city a fee prescribed by the city commission to cover the administrative costs of such appeal. The appellant and the Urban Forestry Division or its designees shall be permitted a reasonable opportunity to present their own evidence regarding the issues raised in the written request for appeal and to rebut any evidence or argument presented by the other party. The rules of evidence shall not apply to the appellate proceeding, but the proceeding shall comport with principles of procedural due process and fundamental fairness. At the conclusion of the proceeding, or a reasonable time thereafter, the Code Compliance Board may affirm, reverse, or modify the decision or condition being appealed.

Sec. 58-303. – Supplemental compliance alternatives.

Notwithstanding any provision contained in this division, in addition to any other remedies or actions provided herein or at law and in equity, the city shall additionally have the right, in its sole discretion, to one (1) or more of the following remedies or actions in the event a violation of this division has occurred or is occurring in accordance with Florida law, chapter 162, Florida Statutes, and Chapter 1, Article II and Chapter 2, Article III, Division 5 of the city code of ordinances: initiation of code enforcement or code compliance proceedings against any and all alleged violators of this division for the maximum penalties proscribed in accordance with chapter 162, Florida Statutes; prosecution as a criminal misdemeanor punishable by a fine not exceeding \$500.00 or imprisonment for a definite term not exceeding sixty (60) days, or by both such fine and imprisonment in the discretion of the court; issuance of a civil citation, which shall be punishable as a Class III Offense with a civil penalty of \$200.00 per violation as set forth in Chapter I, Article II, section 1-23 of this Code; and/or initiation and prosecution of any appropriate action at law or in equity to bring about compliance or remedy, including but not limited to, instituting an action in any court to enjoin violations of this section, in which case the violating business, entity, and/or individual shall be liable to the city for reimbursement of the city's attorneys' fees and costs relating to such action. Should the city elect to utilize any of the supplemental compliance alternatives set forth in this subsection, then any and all appeals shall be in accordance with Florida law and not subject to the city's appellate processes and procedures set forth in this division.

Secs. 58-304—58-320. - Reserved.

SECTION III: That Article V, Division 8 of Chapter 58 of the Land Development Code of the City Winter Park regarding Landscape Regulations is hereby amended to read as follows (~~struck out text~~ indicates deletions; underlined text indicates additions; and non-referenced sections shall remain unchanged):

DIVISION 8. – LANDSCAPE REGULATIONS

Sec. 58-331. - Purpose and intent.

These regulations are enacted by the city for the purpose of the following:

* * *

(6) Creating sustainable landscape areas of adequate size to enable plant material to successfully mature and promote green initiatives and sustainability.

(7) Upholding the intentions of and ~~C~~contributing to the city's ~~reforestation tree preservation and protection ordinance and urban management~~ plan.

Sec. 58-332. – Definitions.

For the purposes of this division, certain terms or words used herein shall be interpreted as follows:

* * *

DBH (diameter at breast height) shall mean a standard measurement of a tree trunk diameter as measured at a predetermined point of measurement. Trunks of existing trees shall be measured at ~~DBH dbh~~, four and one-half feet above the soil line. For multitrunked trees, the ~~DBH dbh~~ shall mean the cumulative diameter measured at breast height (four and one-half feet) of the two largest trunks divided by two.

Exempt tree shall mean any tree does not require a permit for removal and as may be otherwise designated as an exempt tree as set forth in the Urban Forestry Plant Guide.

* * *

Hedge shall mean a planting of evergreen shrubs ~~listed in section 58-341, approved plant and tree materials~~, which forms a compact, dense, living barrier ~~and which~~ screens an area from view. The plants shall be in a minimum container size of seven gallons at a minimum 30-inch height at the time of planting and grow to at least 40 inches in height within one year after planting. Spacing of the hedge plants shall be no more than 42 inches apart.

* * *

Historic tree shall mean any protected tree with a DBH of 36" or greater with specific size and age requirements that a species specific as set forth in the Urban Forestry Plant Guide, or a tree that has special or exceptional documented historic and aesthetic value relating to the community, state, or nation.

* * *

Medium tree shall mean a species of tree that reaches a mature height of 30-50 feet and is listed in the Urban Forestry Plant Guide. Minimum size is three inches in caliper at planting (depending upon the mitigation requirements relating to tree removal on the relevant subject site).

* * *

Protected tree shall mean any self-supporting woody or fibrous perennial plant of a species that normally grows to a mature height of 25 feet or greater and has a tree trunk DBH of 9" or greater and is not an exempt tree. Protected tree shall also refer to any replacement tree, any non-exempt tree that is represented in a planning document for the purposes of securing an approved building or demolition permit, and all trees on city property.

* * *

Shade tree shall mean a species of tree which normally grows to a mature height of ~~40~~50 to 75 feet or more and is listed in ~~section 58-341~~the Urban Forestry Plant Guide, approved plant and tree materials. Each shade tree shall be a minimum of 12 feet in height and a minimum of three-inch caliper at planting depending on the mitigation requirements of trees being removed from the site.

Specimen tree generally refers to any protected tree species with a DBH of 18" or greater and any shade tree of 18" DBH or greater. Notwithstanding the preceding, some tree species are considered specimen trees when they reach a smaller diameter depending on the physical characteristics of, vigor, and vitality of the individual tree as determined by the Urban Forestry Division, which includes but is not limited to, any medium tree of 12" DBH or greater and any understory species of 8" DBH or greater. The breakdown of specimen trees are listed within the Urban Forestry Plant Guide.

Understory tree shall mean a species of tree that grows approximately 15 to 25 feet in height and is identified as an understory tree in the Urban Forestry Plant Guide~~listed in section 58-341, approved plant and tree materials.~~ Each understory tree shall be a minimum of six feet in height and a minimum of **two inches ~~in one inch~~ caliper at planting.**

* * *

Vine shall mean a species of vine listed in the Urban Forestry Plant Guide~~section 58-341, approved plant and tree materials.~~ A planting of vines shall form a dense, evergreen living barrier to screen an area from view. The vines shall be in a minimum container size of three gallons at a minimum 24-inch height at the time of planting and grow to at least 40 inches in height within one year after planting. Spacing of the vines shall be no more than 36 inches apart. Support shall be provided for the vines to grow upright.

Water use zones shall mean distinct portions of a property that shall be of a low-, moderate-, or high-water use. These zones shall be planted with plant materials with similar or lower water use needs. If irrigation is provided, then each zone shall be irrigated with separate irrigation zones on separate programs. Refer ~~to section 58-341, approved plant and tree materials, to determine the water needs of plants and~~ to division 9, irrigation regulations.

Sec. 58-333. – General criteria for all properties.

(a) The use of appropriate Florida-Friendly landscape design (<http://www.floridayards.org/>) is encouraged in order to reduce irrigation needs and to protect the waterfront. An irrigation system to be used during establishment and selectively during times of drought is still required for landscape plantings that feature Florida-friendly design. The nine principles are:

(4) *Mulch*: Maintain two to three inches of mulch to help retain soil moisture, prevent erosion and suppress weeds. **Cypress, dyed (red), or artificial mulch are prohibited.**

* * *

Sec. 58-334. – General requirements for all properties involving new construction, renovation, or expansion.

(a) As a condition for the issuance of a building permit, all properties undergoing initial development or redevelopment involving construction, renovation, or expansion of the improvements on any property shall be required to conform to the landscape requirements in this division prior to the issuance of a certificate of occupancy if the value of the work is more than 50 percent of the value of the improvements on the property as set forth in the most recent records of the Orange County Property Appraiser. One- and two-family dwelling interior alterations shall not require compliance with ~~sections~~ 58-334 through 58-340. Existing commercial or multifamily properties undergoing redevelopment and containing nonconforming landscaped buffers and islands along street fronts and within the interior of parking lots may continue to utilize these same landscaped areas in lieu of the requirements in ~~S~~subsection 58-336(e)(1) to prevent having a parking space deficit for the property. Where feasible, the requirements of ~~S~~subsection 58-336(e)(1) will be met. Commercial and multifamily properties must meet these requirements as part of any expansion.

(b) Any tree installed to meet a requirement of this division shall be considered a protected tree as noted in division 6, tree removal and protection.

(c) Use of understory, **medium**, and shade trees.

(1) In some situations as noted within this division, understory trees **and medium trees** may be substituted two for one (2:1) for required shade trees.

- (2) Medium trees are an alternative to shade trees; however, medium trees are prohibited from being planted directly under overhead utility lines and must remain a minimum of 20 feet from the outside phase of the overhead utility lines.
- (3) Understory trees shall be used instead of shade trees under and within 15 feet of overhead power lines.
- (34) When there are more than five ~~shade~~-trees required on a site, a minimum of two different tree species are required. When more than ten ~~shade~~-trees are required on a site, a minimum of three different tree species are required and so forth with one additional different tree species required for each additional multiple of five required trees.
- (45) Shade, medium, and understory tree trunks measured from the trunk centerline shall be a minimum distance of ~~six~~~~four~~ feet from curbs, walks, pavement, walls, and underground utilities with the exclusion of city-owned public rights-of-way.
- (56) Shade trees shall be spaced no closer than ~~25~~50 feet.

* * *

(k) Only bamboo species that grow to less than 20 feet in height shall be permitted to be planted beneath ~~or within 5 feet~~ and shall be setback a minimum of 15' from ~~of any~~ overhead electric utility lines.

Sec. 58-335. – One- and two-family dwellings.

(a) Forty percent of pervious areas shall be low-water use zone(s) on separately programmed irrigation zone(s). See division 9, irrigation regulations, for specific requirements.

(b) ~~A minimum of one shade tree shall be required for each quarter-acre (10,890 square feet) of property. For lots less than a quarter-acre in size, one shade tree is required, however, in situations where conditions exist which make it unfeasible to comply with the shade tree planting requirements, the city may make an exception and allow two understory trees in replacement for the one shade tree. Healthy existing shade trees shall count toward required shade trees.~~ Existing and healthy protected, specimen, or historic trees shall serve as the shade tree requirement or a portion of the shade tree requirement. Each site is unique and will require arborist assessment to determine exact requirements based upon vigor, vitality, size, site conditions, and number of existing trees. Preservation is encouraged to protect and enhance the city's urban forest.

A minimum of one shade tree located in the front yard and one shade tree located in the back yard is required for each lot. On corner lots, the front yard shall be considered as abutting the street upon which the lot has its least dimension. For lots that are less than ¼

acre, there shall be required a minimum of two shade trees. Medium or understory trees may be substituted on a two for one (2:1) basis should specific site conditions prevent shade tree planting. For lots that are between ¼ acre up to ½ acre, there shall be required a minimum of three shade trees. For lots that are between ½ acre up to ¾ acre, there shall be required a minimum of four shade trees. For lots that are from ¾ acre to 1 acre, there shall be required a minimum of five shade trees. For lots greater than 1 acre, there shall be required two shade trees for every 10,000 square feet.

(c) Shade trees shall be required in the ~~parkway~~median at the rate of one per ~~3350~~ feet of lot width at the front lot line excluding paved areas and shall be placed in the parkway or adjacent private property with a minimum of ~~one~~two shade trees required per every 10,000 square feet of lot size. Healthy existing shade trees count towards required shade trees. If overhead power lines or shade trees are present within 25 feet, then understory or medium trees shall be substituted at a 2:1 ratio and may be required to be placed on the lot. If the parkway width is less than eight feet or contains a swale required by the city, the shade tree shall be placed on the lot or substituted with two understory or medium trees in the parkway. Requiring the tree placement on private property, omission of a tree due to existing tree spacing or other modifications may be made at the direction of the city.

(d) Shade trees shall be required at the rate of one per ~~3350~~ feet of shoreline within 25 feet of the shoreline with a minimum of ~~one~~two shade trees per every 10,000 square feet of lot size. These newly planted shade trees may be clustered and healthy existing shade trees within 25 feet of the shoreline count towards required shade trees. Only one existing tree within each ~~3350-foot~~ length can be used for credit. Species of shade trees which are well-acclimated to the aquatic environment shall be given preference. Allowing the omission of a tree due to existing tree spacing or other modifications to this requirement may be made at the direction of the city.

Sec. 58-336. – Nonresidential and multifamily properties.

(a) *Landscape plans for all nonresidential and multifamily properties.* Each set of plans filed with an application for a building permit for all nonresidential and multifamily development projects required to conform to this Code shall include a landscape plan complying with this division. This landscape plan shall be submitted to the building department and shall be approved by the ~~parks d~~Director of the Parks and Recreation Departmentcity or their designee, prior to the issuance of a building permit. Some projects, including, but not limited to, conditional use applications undergoing review by the planning and zoning commission or city commission will require submission of a landscape plan in advance of the application for the project's building permit.

(d) *Building façade landscaping.*

* * *

(2) The landscape area shall contain plants and be a minimum width of six feet, if space allows, located within a 20-foot distance of the façade(s) or if adjacent to the building façade it shall be at least eight feet in width.

* * *

(6) Shade trees and landscaping within the public right-of-way shall be provided in areas where the street frontage building setback is 15 feet or less. The minimum planting ~~strip area~~ width for shade trees shall be seven feet. Medium trees may be substituted on a two for one (2:1) basis if the planting strip space is greater than or equal to six feet and less than eight feet. Understory trees may be substituted two for one (2:1) for required shade trees if the planting area width is less than ~~six seven~~ feet. The minimum planting area ~~width~~ for understory trees shall be four feet.

(e) *Vehicle use area landscaping.*

* * *

(2) a. All vehicle use areas that adjoin a residential property shall be effectively screened by a ten-foot wide buffer. This buffer shall contain a six-foot high masonry wall and footer immediately adjacent to the property line with grass, ground cover, or other appropriate landscape material. In addition, the buffer shall contain one shade tree and one understory tree for each ~~650~~ linear feet of landscape area. Adjacent existing trees may require the substitution of understory or medium trees at a 2:1 ratio and/or the use of wall bridge footers to minimize damage to root systems.

b. Special landscape and wall buffer requirements for vehicle use areas across the street from residential areas.

The development of parking lots or vehicle use areas on properties fronting on streets directly across from residential properties must be developed with a landscape buffer so as to be in harmony with the existing residential properties. In order to accomplish this, the following mandatory design criteria for this landscape buffer is required:

A minimum ten-foot setback from the property line to such parking lot or vehicle use area must be provided from the street-front property line across the street from the residential properties, and a five-foot-high stucco masonry wall with a neutral color must be provided at this ten-foot setback with six-foot columns placed every 20 to 30 feet along the length of the wall. Staggering the wall to provide articulation at setbacks greater than ten feet is permitted.

Within the required ten-foot setback, a landscape buffer shall be provided which shall consist of a minimum of seven-gallon

plantings spaced every 30 inches of podocarpus, viburnum or Florida anise planting so as to create a hedge, along with a minimum of 65-gallon ligustrum, Japanese, blueberry, ~~or magnolia, or other~~ **approved understory trees species** spaced every ~~25~~-30 feet apart among the hedge. In addition, the exterior landscape area shall have one-gallon groundcover spaced 18 inches apart ~~of either Asian jasmine, ground mound lantana or yellow bulbine~~. As a future substitute for the hedges, the exterior face of the wall may be planted with **approved plant material** ~~wandering fig~~ in order to create a "green wall" within two years from the time of planting, with the hedging material planted simultaneously to provide a buffer until the vine has substantially covered the wall after which the hedging material may be removed. **Refer to the Urban Forestry Guide for acceptable species.** An in-ground irrigation system shall be provided in order to ensure that all planting materials will grow and thrive.

* * *

(f) *Exceptions.* Special circumstances may exist in landscape areas located under power lines or close to existing trees that will necessitate the use of understory **or medium** trees at a two for one (2:1) ratio. In those circumstances, the city may accept other landscape materials that are appropriate for these special circumstances.

(g) *Stormwater retention areas.* Stormwater retention areas not screened from view from any public right-of-way by a building or wall shall be screened by a hedge maintained at a four-foot height installed in a landscape area a minimum of four feet in width. In addition, a cypress tree of at least four-inch **caliper** ~~diameter~~ shall be planted within the stormwater retention area for each 50 linear feet of the stormwater retention area.

* * *

(m) *Drive-through windows and lanes.* Landscaping of newly constructed drive-through windows and lanes adjacent to or visible from public rights-of-way shall include ~~a~~ **six to** eight-foot wide **(where space allows)** planting area of an appropriate length with a hedge maintained at a minimum height of six feet and one understory tree for each ~~125~~ feet of length. Renovation of a drive-through requires a four-foot planting area of an appropriate length with a hedge maintained at a minimum height of six feet and one understory tree for each ~~125~~ feet of length. If the drive-through is adjacent to residential, it will require an eight-foot planting area as described above in this same subsection.

* * *

Sec. 58-337. – Landscape materials and installation for nonresidential and multifamily properties.

* * *

(i) All plant material shall be maintained in a plumb, upright and stable condition. **Trees shall not be guved or staked except in certain circumstances where the soil or slope presents a reasonable potential for windthrow.** ~~All trees/palms shall be guyed or staked for a minimum of one year. If trees/palms are well rooted, the guying or staking attachments shall be removed by the end of the 13th month.~~ Attachments shall be adjusted regularly to prevent girdling of trunks or branches.

(j) Following the completion of the installation of all landscaping as required by these regulations, the landscape architect shall provide a signed and sealed as-built landscape plan portraying landscape materials as installed and certify in writing with a signed and sealed letter to the city that the landscaping has been installed pursuant to the approved landscape plan and that any substitutions or deletions of plant materials were approved and accepted prior to installation by **The Director of the Parks and Recreation Department or their designees** ~~parks director or his designee.~~

* * *

Sec. 58-339. – Tree protection and tree removal.

The protection and/or removal of existing trees at **9" DBH** ~~nine-inch dbh~~ or greater are governed by the city's tree ordinance detailed in division 6, tree removal and protection. Landscape plans prepared for compliance with these regulations shall include the protected trees indicated by **species** ~~type~~ and size and the proposed preservation or removal pursuant to the city's tree ordinance.

Sec. 58-340. - Prohibited plant species.

(a) Removal of prohibited plant species.

(1) The natural vegetative communities and landscaped areas within the city shall be protected by the control and elimination of prohibited plant species. All prohibited plant species including any living roots shall be removed from each site prior to the beginning of construction.

(2) Control and elimination procedures shall in no way harm, cause the decline **or destruction** of preserved or planted trees and landscaping, or promote the proliferation of the prohibited plant species through the dispersal of seed or other vegetative reproducing parts.

(3) ~~Prohibited plants typically found in the city include, air potato, skunk vine, Japanese climbing fern, Chinese tallow tree, and Brazilian pepper.~~ For purposes of determining other plant species to remove, refer to **the Urban Forestry Plant Guide** Table 1. For the most up-to-date lists, refer to the State of Florida Department of Agriculture and Consumer Services, and the Florida Department of Environmental Protection. The **Director of the Parks and Recreation**

Department or their designees ~~parks director or his designee~~ may approve additions or exceptions to ~~the list of acceptable species~~this list based upon consistency with the policies of this division, shared characteristics and qualities of the potentially prohibited species with acceptable species, particular lot characteristics, and invasiveness issues.

~~PROHIBITED PLANT SPECIES~~
~~TABLE 4~~

~~5B-57.007 Noxious Weed List~~

~~(1) Parasitic Weeds:~~

~~(a) Aeginetia spp. (Aeginetia):~~

~~(b) Alectra spp. (Alectra):~~

~~(c) Cuscuta spp. Only the native Florida species are excluded from this list. These include:~~

~~1.C. americana:~~

~~2.C. compacta:~~

~~3.C. exaltata:~~

~~4.C. gronovii:~~

~~5.C. indecora:~~

~~6.C. obtusiflora:~~

~~7.C. pentagona:~~

~~8.C. umbellata:~~

~~(d) 1. Orobancha spp. (broomrapes), with the exception of:~~

~~— 2.O. uniflora. (oneflowered broomrape)~~

~~(2) Terrestrial Weeds:~~

~~(a) Ageratina adenophora (crofton weed):~~

~~(b) Alternanthera sessilis (sessile joyweed):~~

- (c) ~~Abrus precatorius (rosary pea).~~
- (d) ~~Ardisia elliptica (shoebutton ardisia).~~
- (e) ~~Asphodelus fistulosus (onionweed).~~
- (f) ~~Avena sterilis (including Avena budoviciana) (animated oat, wild oat).~~
- (g) ~~Borreria alata (broadleaf buttonweed).~~
- (h) ~~Carthamus oxyacantha (wild safflower).~~
- (i) ~~Casuarina equisetifolia (Australian pine).~~
- (j) ~~Casuarina glauca (suckering Australian pine).~~
- (k) ~~Chrysopogon aciculatus (pilipiliula).~~
- (l) ~~Colubrina asiatica (latherleaf)~~
- (m) ~~Commelina benghalensis (Benghal dayflower).~~
- (n) ~~Crupina vulgaris (common crupina).~~
- (o) ~~Cupaniopsis anacardioides (carrotwood)~~
- (p) ~~Digitaria scalarum (African couchgrass, fingergrass).~~
- (q) ~~Digitaria velutina (velvet fingergrass, annual couchgrass).~~
- (r) ~~Dioscorea alata (white yam).~~
- (s) ~~Dioscorea bulbifera (air potato).~~
- (t) ~~Drymaria arenarioides (lightning weed).~~
- (u) ~~Emex australis (three corner jack).~~
- (v) ~~Emex spinosa (devil's thorn).~~
- (w) ~~Euphorbia prunifolia (painted euphorbia).~~
- (x) ~~Galega officinalis (goat's rue).~~
- (y) ~~Heracleum mantegazzianum (giant hogweed).~~

(z) *Imperata brasiliensis* (Brazilian satintail).
(aa) *Imperata cylindrica* (Cogongrass).
(bb) *Ipomoea triloba* (little bell, aiea morning glory).
(cc) *Ischaemum rugosum* (murainograss).
(dd) *Leptochloa chinensis* (Asian sprangletop).
(ee) *Leucaena leucocephala* (lead tree).
(ff) *Lycium ferocissimum* (African boxthorn).
(gg) *Lygodium japonicum* (Japanese climbing fern).
(hh) *Lygodium microphyllum* (small leaved climbing fern).
(ii) *Melaleuca quinquenervia* (melaleuca).[†]
(jj) *Melastoma malabathricum* (Indian rhododendron).
(kk) *Mikania cordata* (mile a minute).
(ll) *Mikania micrantha* (climbing hempweed).
(mm) *Mimosa invisa* (giant sensitive plant).
(nn) *Mimosa pigra* (catclaw mimosa).[†]
(oo) *Nassella trichotoma* (serrated tussock).
(pp) *Neyraudia reynaudiana* (Burma reed).
(qq) *Opuntia aurantiaca* (jointed prickly pear).
(rr) *Oryza longistaminata* (red rice).
(ss) *Oryza punctata* (red rice).
(tt) *Oryza rufipogon* (wild red rice).
(uu) *Paederia cruddasiana* (sewer vine).
(vv) *Paederia foetida* (skunk vine).

(ww) *Paspalum scrobiculatum* (Kodomillet).
 (xx) *Pennisetum clandestinum* (Kikuyu grass).
 (yy) *Pennisetum macrourum* (African feathergrass).
 (zz) *Pennisetum pedicellatum* (Kyasuma grass).
 (aaa) *Pennisetum polystachyon* (missiongrass, thin napiergrass).
 (bbb) *Prosopis* spp.
 (ccc) *Pueraria montana* (kudzu).
 (ddd) *Rhodomyrtus tomentosa* (downy myrtle).
 (eee) *Rottboellia cochinchinensis* (itchgrass).
 (fff) *Rubus fruticosus* (bramble blackberry).
 (ggg) *Rubus molluccanus* (wild raspberry).
 (hhh) *Saccharum spontaneum* (wild sugarcane).
 (iii) *Salsola vermiculata* (wormleaf salsola).
 (jjj) *Sapium sebiferum* (Chinese tallow tree).
 (kkk) *Scaevola taccada* (beach naupaka).
 (lll) *Schinus terebinthifolius* (Brazilian pepper tree).[†]
 (mmm) *Setaria pallidifusca* (cattail grass).
 (nnn) *Solanum tampicense* (wetland nightshade).
 (ooo) *Solanum torvum* (turkeyberry).
 (ppp) *Solanum viarum* (tropical soda apple).
 (qqq) *Tridax procumbens* (coat buttons).
 (rrr) *Urochloa panicoides* (liverseed grass).

62C-52.011 Prohibited Aquatic Plants

Alternanthera philoxeroides
Alligatorweed, green-leaf plant
Casuarina spp.—Australian Pine
Crassula helmsii—swamp stone crop
Eichhornia spp.—waterhyacinth
Hydrilla verticillata—hydrilla, Florida elodea
Ipomoea aquatica—water spinach
Ipomoea fistulosa
Lagarosiphon spp.—African elodea
Limnocharis flava—Sawah flowing rush
Lythrum salicaria—purple loosestrife
Melaleuca quinquenervia—melaleuca
Mimosa pigra—giant sensitive plant, cat's claw
Monochoria hastata
Monochoria vaginalis
Myriophyllum spicatum—Eurasian watermilfoil
Necchamandra alternifolia
Oryza rufipogon—wild red rice
Pontederia rotundifolia—tropical pickerelweed
Salvinia spp., (excluding *S. minima*)
Schinus terebinthifolius—Brazilian pepper
Sparganium erectum—exotic burreed
Stratiotes aloides—water aloe, soldier plant

~~Trapa spp.—water chestnut~~

~~Vossia cuspidata—hippo grass~~

Sec. 58.341.—Approved plant and tree materials.

In addition to Florida Friendly Plants (<http://fyn.ifas.ufl.edu/materials/list.pdf>), the following list of plants and trees (Tables 2-8) shall be used to meet these landscape requirements. The parks director or his designee may approve additions or exceptions to this list.

SHADE TREES

TABLE 2

(L—low water use, M—moderate water use,
H—high water use)

BOTANICAL NAME	COMMON NAME
Acer rubrum	Red maple M
Liquidambar styraciflua	Sweetgum L
Juniperus silicicola	Red cedar L
Magnolia grandiflora cv.	Southern magnolia —cultivars M
Quercus falcata	Southern red oak L
Quercus hemisphaerica	Darlington oak M
Quercus geminata	Sand live oak L
Quercus laurifolia	Laurel oak M
Quercus shumardii	Shumard oak L
Quercus virginiana	Live oak L
Taxodium ascendens	Pond cypress L
Taxodium distichum	Bald cypress L
Ulmus alata	Winged elm L

UNDERSTORY TREES

TABLE 3

(L—low water use, M—moderate water use,
H—high water use)

BOTANICAL NAME	COMMON NAME
<i>Aesculus pavia</i>	Red-buckeye M
<i>Cercis canadensis</i>	Red-bud L
<i>Chionanthus retusus</i>	Chinese fringe-tree M
<i>Chionanthus virginicus</i>	Fringe-tree M
<i>Crataegus</i> spp.	Hawthorn-species L
<i>Elaeocarpus decipiens</i>	Japanese-blueberry-tree M
<i>Eriobotrya japonica</i>	Loquat-tree M
<i>Forestiera segregata</i>	Florida-privet L
<i>Ilex cornuta</i> 'Burfordii'	Burford holly M
<i>Ilex vomitoria</i>	Yaupon holly L
<i>Ilex vomitoria</i> 'Pendula'	Weeping-yaupon holly L
<i>Lagerstroemia indica</i>	Crape-myrtle L
<i>Ligustrum japonicum</i> (tree form)	Japanese-privet tree L
<i>Magnolia grandiflora</i> 'Little Gem'	Little Gem magnolia M
<i>Myrcianthes fragrans</i>	Simpson's stopper L
<i>Parkinsonia aculeata</i>	Jerusalem thorn L
<i>Prunus umbellata</i>	Flatwoods-plum M
<i>Viburnum obovatum</i>	Walters-viburnum L
<i>Vitex agnus-castus</i> 'Shoal Creek'	Shoal Creek-chaste-tree L

HEDGE/SHRUBS
TABLE 4

(L—low-water use, M—moderate-water use,
H—high-water use)

BOTANICAL NAME	COMMON NAME
<i>Acca sellowiana</i>	Pineapple-Guava/Feijoa L
<i>Cestrum aurantiacum</i>	Golden-jasmine M
<i>Elaeagnus pungens</i>	Silverthorn L

BOTANICAL NAME	COMMON NAME
<i>Forestiera segregata</i>	Florida privet L
<i>Hex cornuta</i> 'Dwarf Burford'	Dwarf Burford holly L
<i>Hex glabra</i>	Gallberry M
<i>Hex vomitoria</i>	Yaupon holly L
<i>Illicium parviflorum</i>	Yellow anise M
<i>Podocarpus macrophyllus</i>	Yew podocarpus L
<i>Ternstroemia gymnanthera</i>	Japanese eleyera M
<i>Viburnum obovatum</i>	Walters viburnum L
<i>Viburnum odoratissimum</i>	Sweet viburnum M

TABLE 5

BOTANICAL NAME	COMMON NAME
<i>Aristida stricta</i>	Wiregrass L
<i>Eragrostis elliotii</i>	Elliot's lovegrass L
<i>Eragrostis spectabilis</i>	Purple love grass L
<i>Muhlenbergia capillaris</i>	Muhly grass L
<i>Paspalum quadrifarium</i>	Evergreen paspalum grass M
<i>Sorgastrum secundum</i>	Lopsided indian grass L
<i>Spartina bakeri</i>	Cord grass L
<i>Spartina patens</i>	Saltmeadow cord grass L
<i>Tripsacum dactyloides</i>	Phakahatchee grass L
<i>Tripsacum floridanum</i>	Florida gama grass L

VINES
TABLE 6

(L—low water use, M—moderate water use,
H—high water use)

BOTANICAL NAME	COMMON NAME
Bignonia capreolata	Cross vine L
Ficus pumila	Creeping fig L
Lonicera sempervirens	Coral honeysuckle L
Trachelospermum jasminoides	Confederate jasmine L

~~TURF GRASSES~~
~~TABLE 7~~

~~(L—low water use, M—moderate water use,
H—high water use)~~

BOTANICAL NAME	COMMON NAME
Paspalum notatum 'Argentine'	Argentine Bahia grass L
Cynodon dactylon	Common Bermuda grass M
Eremochloa ophiuroides	Centipede grass M
Stenotaphrum secundatum cv.	St. Augustine grass —cultivars H
Zoysia spp.	Zoysia grass species M

~~TURF SUBSTITUTES~~
~~TABLE 8~~

~~(L—low water use, M—moderate water use,
H—high water use)~~

BOTANICAL NAME	COMMON NAME
Mimosa strigillosa	Sunshine mimosa L
Lomandra longifolia	Spiny mat rush L

BOTANICAL NAME	COMMON NAME
Arachis glabrata cvs.	Perennial peanut and —cultivars L
Juniperus conferta cvs.	Shore juniper and cultivars L
Trachelospermum asiaticum	Dwarf Asian jasmine M
Zamia floridana	Coontie L

Sec. 58-341~~2~~. – Enforcement, penalties, and collection of past due fees.

(a) In addition to the supplemental compliance alternatives set forth in this division, the Parks and Recreation Department and the ~~building and code enforcement department~~ shall provide interpretations, administration, and enforcement of the provisions of this division ~~with technical guidance received from the parks department~~. Enforcement shall occur during the review process for building plans submitted for permitting and during reviews by the development review committee, planning and zoning commission, and city commission when projects are submitted through those entities. Follow-up for compliance shall continue during the construction phase and prior to the issuance of a certificate of occupancy for the permitted plans.

(b) The city shall have the authority to stop work at a site if unauthorized landscaping work is occurring not in compliance with this division or with the approved plans, whichever is applicable. Once a stop work order is issued, work shall not commence until the necessary corrections have been made and work is authorized to continue by the city. Additionally, the city may withhold the issuance of a certificate of occupancy for a building project upon the city's determination that a violation of this division has occurred and is not timely corrected.

(c) The Urban Forestry Division may issue citations relating to violations of this division, which violations shall be punishable as a Class IV violation with a civil penalty of \$300.00 per violation. For repeat offenders, the city has the right to double the civil penalty set forth herein for each subsequent infracting along with any other remedies set forth in this division or under Florida law. ~~Violations for this division shall be subject to the following: Issuing a "Stop work" order, withholding the issuance of a certificate of occupancy for a building project; issuing a citation as a class IV level citation as listed under article II, code enforcement citation, section 1-23, "classes of violations and penalties," and/or referring the violation to the code enforcement board for failure to correct a violation.~~

(d) In the event that the fines imposed in accordance with this division are not paid when due for any reason, including but not limited to, mistake or inadvertence, the city shall have the right to collect such fees or fines as follows:

(1) The city shall serve, by certified mail-return receipt requested and regular U.S. Mail, a notice of non-payment upon the violator and the current owners of the property based on the ownership information appearing on the

Orange County Property Appraiser/Tax Collector's website(s). Provided the city sends the notice of non-payment, the violator and/or current owner's failure to receive delivery of such notice of non-payment shall not invalidate or otherwise impact the city's ability to collect the outstanding amount owed through the recording of a lien, maintenance of foreclosure proceedings, or any other remedies provided by Florida law.

(2) The notice of non-payment shall contain:

(i) a description or address of the property upon which the violation occurred;

(ii) advise the violator and/or property owner of the amount due and the fee and/or charges that were not paid; and

(iii) advise that in the event the fees and/or charges are not paid within thirty (30) calendar days from the date of the notice of non-payment, that a notice of lien against the applicable property upon which the violation occurred may be recorded in the official records of the county and such notice of lien may be foreclosed upon by the city to collect the outstanding sums owed plus accrued interest and attorneys' fees and other collection expenses.

(3) If the amount set forth in the notice of non-payment is not paid within thirty (30) days from the date of the notice of non-payment, then the outstanding balance owed to the city shall accrue interest at the rate of twelve percent (12%) per annum until such amount is paid in full; the city may proceed to record a notice of lien against the applicable property in the official records of the county, which, once recorded, shall constitute a lien against the property described therein; and a copy of the notice of lien shall be served by U.S. Mail to the violator and the property owner at the same addresses as set forth in subsection (2) above.

(4) After the expiration of sixty (60) days from the date of recording of the notice of lien, a suit may be filed to foreclose said lien. Such foreclosure proceedings shall be instituted and prosecuted in conformity with the Florida statutory provisions regarding foreclosure proceedings and procedures. The city shall also have the right to bring an action for monetary judgment to collect past due amounts owed.

(5) The violator and the owner shall be responsible, jointly and severally, for and the city shall be entitled to reimbursement for the payment of all collection expenses and costs, including attorneys' fees and litigation costs and recording and filing fees, incurred by the city in the collection of fees and charges, filing of liens, and in actions to foreclose such liens or actions for monetary judgments.

(6) The collection and enforcement procedures set forth in this section shall be cumulative with and in addition to any applicable procedures provided in any other ordinance of the city, any applicable Florida law, or any agreement. Failure of the city to follow the procedures set forth in this section shall not constitute nor be construed as a waiver of the city's rights to proceed under any other ordinance of the city, in accordance with Florida law, or pursuant to any agreement.

Sec. 58-342. – Responsibilities for costs, fees or fines.

(a) Any agent, representative, or person acting at the request or direction of any property owner, including without limitation a contractor, subcontractor, or landscaping company, who, in whole or in part, violates this division of the code without city approval otherwise, shall be jointly and severally liable with the applicable property owner for resulting costs, fees, or fines. The city may pursue, in its sole discretion, one or more liable parties to recover said costs, fees, or fines. Additionally, in the city's sole discretion, the city is not required to name all liable persons or entities nor provide notice to all liable persons or entities unless otherwise required by Florida law.

(b) Any person or entity that is liable for unpaid costs, fees, or fines under this division is subject to the placement of a "stop work" order on any project within the city involving said person or entity until such time as the costs, fees, or fines are paid and such is certified as having occurred by the city. No person or entity who is liable for unpaid costs, fees, or fines under this division shall be entitled to obtain any other city permits or perform work under any other city permits until such time as the costs, fees, or fines are paid and such is certified as having occurred by the city. No person or entity who is liable for unpaid costs, fees, or fines under this division shall be entitled to obtain a certificate of occupancy until such time as the costs, fees, or fines are paid and such is certified as having occurred by the city.

(c) For purposes of this section, the city is entitled to and shall determine the real party or parties in interest when an entity is liable for a cost, fee, or fine, and the real party or parties in interest shall be subject to the sanction in subsection (b), by way of illustration and not limitation, an individual who does business in more than one corporate or business name shall be considered the "real party in interest" for purposes of applying subsection (b) if any of that individual's entities have unpaid costs, fines, or fees under this division and both that individual and any of the individual's entities may be subjected to the sanctions in subsection (b) until such time as there are no longer any unpaid costs, fees, or fines with such satisfaction certified as having occurred by the city.

Sec. 58-343. - Appeals relating to this division.

(a) Violations, fines, fees, and/or stop work orders. Any person, business, or entity determined by the Urban Forestry Division to be in violation of this division may appeal the determination of any such violation along with the imposition of any fine, fee, and/or stop work orders imposed by filing a written request for appeal to the Director of the Parks and

Recreation Department or their designees within fifteen (15) days of service of the Urban Forestry Division's written citation or notification relating to a violation of this division. The written request for appeal must contain a short statement of the grounds for the appeal. The Code Compliance Board shall hear the appeal within forty-five (45) days after the filing of the written request for appeal, and the Code Compliance Board shall give notice of the hearing to the appellant and the Director of the Parks and Recreation Department or their designees. The appellant shall pay to the city a fee prescribed by the city commission to cover the administrative costs of such appeal.

The Code Compliance Board may reduce or waive the penalties or fees imposed based upon the appellant's presentation of evidence and testimony relating to the absence of a violation, any efforts taken to correct the violation(s) in a timely manner, the gravity of the violation(s), and any previous violations committed by the appellant within the preceding twelve month period. The Director of the Parks and Recreation Department or their designees shall also be permitted a reasonable opportunity to present its own evidence regarding the reasonableness of any fees or penalties imposed and to rebut any evidence or argument presented by the appellant. The rules of evidence shall not apply to the appellate proceeding, but the proceeding shall comport with principles of procedural due process and fundamental fairness.

Sec. 58-344. – Supplemental compliance alternatives.

Notwithstanding any provision contained in this division, in addition to any other remedies or actions provided herein or at law and in equity, the city shall additionally have the right, in its sole discretion, to one (1) or more of the following remedies or actions in the event a violation of this division has occurred or is occurring in accordance with Florida law, chapter 162, Florida Statutes, and Chapter 1, Article II and Chapter 2, Article III, Division 5 of the city code of ordinances: initiation of code enforcement or code compliance proceedings against any and all alleged violators of this division for the maximum penalties proscribed in accordance with chapter 162, Florida Statutes; prosecution as a criminal misdemeanor punishable by a fine not exceeding \$500.00 or imprisonment for a definite term not exceeding sixty (60) days, or by both such fine and imprisonment in the discretion of the court; issuance of a civil citation, which shall be punishable as a Class III Offense with a civil penalty of \$200.00 per violation as set forth in Chapter I, Article II, section 1-23 of this Code; and/or initiation and prosecution of any appropriate action at law or in equity to bring about compliance or remedy, including but not limited to, instituting an action in any court to enjoin violations of this section, in which case the violating business, entity, and/or individual shall be liable to the city for reimbursement of the city's attorneys' fees and costs relating to such action. Should the city elect to utilize any of the supplemental compliance alternatives set forth in this subsection, then any and all appeals shall be in accordance with Florida law and not subject to the city's appellate processes and procedures set forth in this division.

~~Secs. 58-343, 58-344. — Reserved.~~

SECTION IV: URBAN FORESTRY PLANT GUIDE. The City Commission hereby approves and adopts the City of Winter Park Urban Forestry Plant Guide as set forth as Exhibit “A” attached hereto.

SECTION V. INCONSISTENCY. If any Ordinances or parts of Ordinances are in conflict herewith, this Ordinance shall control to the extent of the conflict.

SECTION VI: SEVERABILITY. If any section, subsection, sentence, clause, phrase, provision, or word of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then such invalidity or unconstitutionality shall not be held to invalidate or impair the validity, force, or effect of any other remaining provisions of this Ordinance.

SECTION VII: CODIFICATION. Sections II and III of this Ordinance shall be codified and made a part of the City of Winter Park Land Development Code, and the sections of this Ordinance may be renumbered or relettered to accomplish this intention. The word “Ordinance” may be changed to “Section,” “Article,” or other appropriate word. The City Clerk is given liberal authority to ensure proper codification of this Ordinance, including the right to correct scrivener’s errors.

SECTION VIII: This Ordinance shall become effective immediately upon approval by the City Commission at its second reading.

First reading held on the _____ day of _____, 2018.

Second reading, public hearing, and adoption held on the _____ day of _____, 2018.

**City of Winter Park
City Commission**

Steven M. Leary, Mayor

Attest: _____
Cynthia S. Bonham, City Clerk

S:\AKA\CLIENTS\Winter Park\General W600-26000\Tree Preservation Ordinance\Tree Preservation and Landscaping Ordinance - Clerk
Requested Format - 7-26-19.docx



Agenda Item Summary

Winter Park Babe Ruth Field Repositioning Request -

Winter Park Babe Ruth has requested that Field 6 be reoriented to allow for greater flexibility in its use amongst various age groups which will enable the league to meet the needs of their growing softball and baseball leagues.

Summary:

Background:



Agenda Item Summary

Splash, Float, Swim Initiative and Dinner on the Ave -

Introduction to proposed Splash, Float, Swim initiative that would make beginner level swim lessons available to all Winter Park children of Kindergarten age through partnership with schools and Winter Park YMCA. Request PRAB approval to increase Dinner on the Avenue table fee by \$50 (\$125 to \$175) with 20% of revenues being directed towards funding for the Splash, Float, Swim initiative. This would provide approximately \$6,000 of funding to help cover costs associated with the program and provide Dinner on the Avenue with a worthy cause.

Summary:

Background:

ATTACHMENTS:

Description	Upload Date	Type
Splash, Float, Swim Initiative	11/18/2019	Cover Memo
DOTA Financial Summary	11/18/2019	Cover Memo

Introduction to proposed Splash, Float, Swim initiative that would make beginner level swim lessons available to all Winter Park children of Kindergarten age through partnership with schools and Winter Park YMCA. Request PRAB approval to increase Dinner on the Avenue table fee by \$50 (\$125 to \$175) with 20% of revenues being directed towards funding for the Splash, Float, Swim initiative. This would provide approximately \$6,000 of funding to help cover costs associated with the program and provide Dinner on the Avenue with a worthy cause.

Proposed Program Summary – Splash, Float, Swim

Objective:

Prevent avoidable drowning incidents for Winter Park youth through introduction to basic swimming and water safety for all Winter Park youth through cooperative effort between City of Winter Park, Winter Park YMCA/YMCA of Central FL, OCPS, and other community organizations.

Target Demographic:

Primary - All Winter Park residents currently enrolled or that have recently completed Kindergarten.

Project Timeline:

2nd Semester of OCPS school calendar

Duration of Program:

8-10 sessions (30-45m/session)

Delivery of Program:

- Consecutive days as part of PE (see Brookshire Elem) or weekly sessions through OCPS schools
- Community based program at both City pool locations

Proposed Program Delivery Model:

Element 1 - In School Program :

Target: Kindergarten children enrolled in Winter Park feeder schools

Proposed Program Dates: Spring 2020

Adopt A School:

Brookshire Elementary – City of Winter Park Parks and Recreation

Location: Cady Way Pool

Program already in place through City of Winter Park Parks and Recreation.

Lakemont Elementary – Winter Park YMCA

Location: Winter Park YMCA

WP YMCA currently working with Lakemont Elementary to offer swim lessons thru PE.

Audubon K-8 – City of Winter Park

Location: Cady Way Pool

Challenge: Transportation of Students from school to CWP

Possible Solutions: Parks and Recreation Shuttle Bus, Audubon Student Activity Shuttle, OCPS

Element 2 – Community Program:

Same Curriculum – Free to any WP resident who has completed Kindergarten thru 2nd grade

Target:

- *New residents that missed school program*
- *Homeschool children*
- *Resident children under 9 years who are still at high risk for drowning*
- *Special Needs ?*

Locations:

- Cady Way Pool
- Community Center Pool
- Winter Park YMCA ?

Program Dates: Late Spring 2020 with classes offered after school and weekends.

Program Partners: Advent Health - \$5,000.00

Element 3 – Demographic focused programming focused on Adult and Children

Target: Residents that have a higher risk of drowning, inherited fear of the water, and limited access to pools.

Same curriculum with slight modification for adults – Free to any Winter Park resident located in CRA

Location:

Community Center Pool

Program Dates: Summer 2020

Program Partners: American Red Cross of Central Florida

Projected Program Expenses:

Expense Summary:

- Instructors - \$11,000
- Marketing Materials - \$1,000
- Program Materials - \$1,500
- Transportation - \$2,000

Projected Outcomes:

- Expose all Winter Park children to basic swimming instruction and water safety before the completion of Kindergarten.
- Over 500 Kindergarten students participate in an 8-10 week Splash, Float, Swim program through public school partnership
- Over 200 Winter Park children provided basic swim instruction and water safety through our Spring/Summer Community Splash, Float, Swim program.
- Continue to build partnerships with community organization to ensure program success for long term.

Other Pertinent Information:

- CRA and Parks and Recreation are in final discussion with **Advent Health** to redirect their sponsorship funds previously used towards ice rink towards the swim program. Amount would be **\$5,000.00** minimum with potential for more funding in future.
- Parks and Recreation Dept is working with the **American Red Cross** to secure potential funding that would be used towards swimming programs that target populations with the highest risk of drowning.

Dinner on the Avenue Financial Summary

Traditionally, the Dinner on the Avenue has been ran as a breakeven event. This means that fee was set to closely match the gross cost of event with no profit/loss. The Department is requesting that the fee be raised to allow the event to operate at a surplus with up to 25% of gross revenue being directed towards funding the Splash, Float, Swim Program.

- **Average Annual Revenue: \$19,500**
- **Average Annual Expense: \$19,000**

(Based on FY17 and FY18 figures)

- **Projected Revenue (@\$175): \$28,000**
- **Projected Fees (FY 20): \$21,000**
- **25% of Revenue to Splash, Float, Swim Program: \$7,000**



Agenda Item Summary

WPHF 25th Anniversary Community Grant -\$50,000 - The Parks and Recreation Department was awarded a \$50,000 grant from the Winter Park Health Foundation. Grant funds will be used to continue improvements along the north side of Ward Park adjacent to Center for Health and Well Being and Ward baseball field parking/entry.

Summary:

Background: