



# city commission agenda

August 26, 2019  
2:00 PM  
Commission  
Chambers

## mayor & commissioners

seat 1  
Gregory Seidel

seat 2  
Sarah Sprinkel

Mayor  
Steve Leary

seat 3  
Carolyn Cooper

seat 4  
Todd Weaver

## 1. Urban Forestry discussion

- a. **Urban Forestry discussion regarding current ordinances and HB1159** 60 minutes

### 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."



# city commission **agenda item**

item type	Urban Forestry discussion	meeting date	8/26/2019
prepared by	City Clerk	approved by	
board approval	final vote		
strategic objective			

## **subject**

Urban Forestry discussion regarding current ordinances and HB1159

## **motion / recommendation**

## **background**

## **alternatives / other considerations**

## **fiscal impact**

### ATTACHMENTS:

Description	Upload Date	Type
Current Ordinance	8/20/2019	Cover Memo
Landscape regulations	8/20/2019	Cover Memo
HB1159	8/20/2019	Cover Memo

## DIVISION 6. - TREE PRESERVATION AND PROTECTION

Sec. 58-281. - Purpose and intent.

Sec. 58-282. - Definitions.

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

Sec. 58-284. - Tree removal permits.

Sec. 58-285. - Criteria for issuance of tree removal permits.

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

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

Sec. 58-288. - Recommended shade and understory trees to use as replacement trees.

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

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

Sec. 58-291. - Tree banking.

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

Sec. 58-293. - Precautions required for significant grade changes for protected trees.

Sec. 58-294. - Precautions required for excavation and paving around protected trees.

Sec. 58-295. - Requirements pertaining to utility companies.

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

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

Sec. 58-298. - Tree maintenance.

Sec. 58-299. - Penalties for tree removal without required permit or for tree damage.

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

Secs. 58-301—58-320. - Reserved.

**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," will continue to realize the benefits provided by its urban forest. The provisions of this division are enacted to:

- (1) Establish and maintain the maximum sustainable amount of tree cover on public and private lands.
  - (2) Maintain city trees in a healthy and non-hazardous condition through good arboricultural practices.
  - (3) Establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest.
  - (4) Minimize the removal of protected trees.
  - (5) Require compensation for the loss of protected trees in all stages of maturity on public and private property.
  - (6) Preserve the community's character and quality of life well into the future.
- (Ord. No. 2724-07, § 1, 10-8-07)

**Sec. 58-282. - Definitions.**

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

*Caliper* shall mean a nursery standard measurement of a tree's trunk diameter as measured at a predetermined point of measurement. Trunk caliper for trees up to four inches shall be measured six inches above the soil line. Trees

greater than four inches in caliper shall be measured 12 inches above the soil line. Caliper measurements shall be used when measuring replacement trees.

*Canopy coverage* shall mean the coverage of a tree, by its limbs and leaves, of the ground below. This area may include trees offsite on adjacent properties or city public right-of-way where limbs and portions of a tree's canopy overhang onto the subject property.

*City:* shall refer to the parks and recreation department and building and code enforcement department.

*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, 4½ feet above the soil line. For multi-trunked trees the dbh shall mean the cumulative diameter of the two largest trunks.

*Dead or beyond recovery* shall mean more than 50 percent of the tree is dead, is a hazardous tree as defined herein, or in a state of irrecoverable decline.

*Deteriorated tree or deterioration* shall mean a tree which is degenerated or damaged by a biological pathogen or pest to the point of the death of the tree is imminent.

*Drip-line* shall mean a vertical line from the horizontal extremity of the canopy of a tree to the ground. For trees with canopies set off-center, the drip-line will be projected based on the average diameter of the existing drip-line using the tree trunk as its point of origin.

*Exempt trees* are trees that do not require a permit for removal (see list in subsection [58-284\(a\)](#)). Exempt trees may not be used to calculate required canopy and may not be used as replacement trees.

*Hazardous tree:* A tree irreparably diseased or presents a danger of falling that cannot be controlled or remedied through reasonable preservation and/or preventative procedures and pesticides such that the public health or safety requires its removal.

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

*R-1 and R-2* refer to Land Development Code, see sections [58-66](#) and [58-67](#).

*Removal of a tree* shall mean either actually removing a tree from the ground which it grew, transplanting a tree, or effectively removing a tree through damage to the trunk, topping, damaging, or removing major limbs, roots, or enough canopy volume so that the tree dies, declines beyond recovery, or becomes a hazard to public safety and must be removed.

*Replacement tree* shall mean any tree planted as a condition of approval of a tree removal permit or as may be required to meet the conditions of this division.

*Right-of-way*: shall mean land in which the city owns the fee or has an easement devoted to or required for use as a transportation facility or street.

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

*Shade tree* is a tree that typically reaches a height of over 25 feet and has an average dbh of nine inches or larger (see [section 58-288](#)).

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

*Stop work order* shall mean a notice stating the reason(s) for stopping work, in writing, given to the owner of the property, or to his agent, or to the person doing the work, or a notice posted at the property upon which tree work is being performed requiring that all work cease.

*Topping* shall mean the removal of 25 percent or more of a tree's canopy.

*Tree banking* is the planting of replacement tree(s) prior to the removal of a specific protected tree(s) (see [section 58-291](#)).

*Tree protection area* shall mean an area surrounding a tree encompassed by a tree's drip-line or projected drip-line.

*Tree protection barrier* shall mean a suitable structure as installed as close as possible to the perimeter of the tree protection area prior to construction, land clearing, or demolition (see [section 58-292](#)).

*Trunk root flare* is the swelling at the base of a tree trunk that increases the trunk diameter.

*Understory tree* is a tree that typically does not reach a height above 25 feet and is shown on the list of understory trees.

(Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2895-12, § 1, 11-26-12)

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

(a) *Parks and recreation department.* The parks and recreation department is delegated the following authority:

(1) To jointly work with the building and code 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 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:

(1) 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.

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

(3) 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 tree preservation board, planning and zoning board or the city commission.

(4) To require certain site plan criteria and photographic documentation be included with issuance of a building permit 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](#).

(5) To issue a stop work order at a site if unauthorized tree work is occurring.

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

(7) 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 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.



(c) *Planning and zoning board and 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 board.*

(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.

(Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2843-11, §§ 3.b.A., 3.c.B(1)—(3), 6-13-11; Memo of 2-22-12(Att. 3.c.B(1)—(3)))

**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.

(b) *Trees requiring tree removal permits.* It shall be unlawful to cut down, destroy, improperly prune, remove, top, or move any protected or replacement tree, or to authorize the cutting down, destruction of, removal of, topping of, moving of, or damage to, any protected 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](#).

Exception: The removal of protected trees that fall or the removal of limbs of protected trees which have fallen due to acts of nature such as storms, fire or natural decay shall not require a tree removal permit.

For all properties, any protected tree, excluding those exempted in subsection [58-284](#)(a) or (b), shall require a permit prior to removal.

Removal of any protected tree that is determined to be dead, beyond recovery or hazardous by the city 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](#))

(Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2895-12, § 1, 11-26-12)

**Sec. 58-285. - Criteria for issuance of tree removal permits.**

(a) 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 basis of the following criteria:

(1) The health of the tree, i.e. whether the tree is deemed dead 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 as a whole.

(4) Whether structural improvements 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 or building size due to the tree location 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).

(Ord. No. 2724-07, § 1, 10-8-07)

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

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

- (1) A tree removal permit 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.
- (3) All protected trees petitioned for removal are to be marked on site in a harmless way and noted accordingly on the site plan.
- (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; 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.

(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.

*(c) 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 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](#)).

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

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

*(f) 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 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.

*(g) 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.

*(h) 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.

(Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2895-12, § 1, 11-26-12)



**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.

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 city approval in accordance with the following criteria:

(1) *Tree replacement.* Protected trees of any dbh requested to be removed because they are deemed to be dead or beyond recovery, hazardous, or deteriorated shall be replaced with one approved replacement tree having a minimum caliper of three inches. Protected trees requested to be removed and not deemed to be dead or beyond recovery, hazardous, or deteriorated shall be replaced with one approved replacement tree or trees as follows:

- a. Replacement of protected trees shall require replacement 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.
- b. Multiple understory trees may be approved as replacement trees with a cumulative caliper of at least six inches and shall be planted on the same property where the tree was removed.
- c. No single replacement shade tree shall have a caliper of less than three inches. No single replacement understory tree, if approved, shall have a caliper of less than two inches.
- d. If understory trees are approved as replacement, the caliper inches required shall be double that required when using approved shade trees.

- e. 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.
  - f. Replacement trees may count toward meeting the planting requirements of [division 8](#), landscape regulations.
  - g. 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.
  - h. 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.
  - i. Minor deviations regarding the required replacement trees in this section may be determined by 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.* Caliper inches not planted as replacement trees are to be compensated by payment to the tree replacement trust fund. Compensation shall equal the rate per caliper inch set by the city commission in the schedule of fees multiplied by the caliper inches of protected trees removed.

- a. Compensation is established in the schedule of fees and shall be dispersed per [section 58-289](#) "tree replacement trust fund".
- b. A stop work order may be issued for any development or active construction project until all applicable permit compensation conditions are satisfied.
- c. The certificate of occupancy or certificate of completion shall not be issued for any development until all applicable permit conditions have been satisfied.
- d. 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.

(Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2895-12, § 1, 11-26-12)

**Sec. 58-288. - Recommended shade and understory trees to use as replacement trees.**

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
<i>Acer rubrum</i>	Red Maple
<i>Betula nigra</i>	River Birch
<i>Liquidambar styraciflua</i>	Sweetgum
<i>Magnolia grandiflora</i>	Southern Magnolia
<i>Quercus hemisphaerica</i>	Darlington oak
<i>Quercus laurifolia</i>	Laurel oak

BOTANICAL NAME	COMMON NAME
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
Ilex cornuta 'Burfordii' tree	Burford holly tree
Ilex cassine	Dahoon holly
Ilex x latifolia	Luster holly
Ilex vomitoria	Yaupon holly
Ilex vomitoria 'Pendula	Weeping yaupon holly
Ilex 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

(Ord. No. 2724-07, § 1, 10-8-07)

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

(a) There is hereby created a tree replacement trust fund. All funds collected as tree replacement fees shall be administered by the director of parks and recreation or designee.

(b) Disbursements from the tree replacement trust fund shall be made only for the following purposes:

(1) Purchasing trees for planting and any associated costs in accordance with the city's tree planting program; or

(2) For educational purposes as provided in subsection [58-283](#)(d)(7).

(3) Protection of trees and enforcement of this division.

(c) Fees for the tree replacement trust fund are established by the city commission in the schedule of fees.

(d) Fees for the tree replacement trust fund shall be reviewed annually by the city commission to reflect cost of living adjustments and/or market conditions and may be modified by approval of the city commission. In establishing fees, the city shall consider the cost of material, labor, transportation, planting, watering and mortality rate of replacement trees.

(Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2895-12, § 1, 11-26-12)

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

(a) Any agent or representative, including without limitation a contractor or subcontractor, who 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, is jointly and severally liable with the 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.

(b) Any person or entity who is liable for unpaid costs, fees, or fines under this division is subject to the placement of a "stop work" order on any project 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 or perform work under any other 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.

(Ord. No. 2724-07, § 1, 10-8-07)

#### **Sec. 58-291. - Tree banking.**

To encourage voluntary tree replacement planting(s) there is hereby created a tree banking program. The tree preservation board 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 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 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 tree preservation board in order to receive credit for any tree replacement as a required condition for tree removal(s).

(Ord. No. 2724-07, § 1, 10-8-07)

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

(a) Before plans are submitted for permit, the city or designee is to be consulted before any permanent structure or impervious paving is constructed within the tree protection area.

(1) A tree protection barrier plan shall be provided illustrating how protected trees located on or adjacent to the subject property will be protected from any adverse effects of proposed construction or grade changes. The plan must include the tree protection barrier that will be installed.

(2) If a major root of any protected tree affected by a grade change extends beyond its drip-line, then additional root protection per [section 58-293](#) may be required.

(3) Prior to demolition, grade change and/or construction, a tree protection barrier shall be placed and maintained as necessary to prevent damaging protected trees on, or adjacent to the subject property.

(4) Tree protection barrier(s) is to be placed at or beyond the tree's drip-line whenever possible. At no time shall the tree protection barrier(s) be closer than ten feet from a trunk unless existing or proposed structures are within that range.

(b) On single family residential (R-1) and multi-family residential (R-2) construction sites and all demolition sites, tree protection shall be provided by a barrier consisting of a four foot high continuous fence with eight foot spacing of supports sufficiently sturdy to provide constant protection of the subject

tree(s) at all times. Posts may be shifted to avoid roots. An access gate, to be locked, may be required. The city shall administratively adopt additional tree protection requirements.

(c) All non R-1 (single family residential) and non R-2 (multi-family residential) construction and demolition sites shall require the following:

(1) A tree protection barrier consisting of continuous chain link fence six feet high, with six foot metal posts with eight foot spacing. Posts may be shifted to avoid roots. An access gate, to be locked, may be required. The city may allow for some modifications to the tree protection barrier.

(2) A tree protection sign(s) spaced at a minimum of every 35 linear feet of tree protection barrier provided. Mount signs equally spaced and attach them securely to the fence facing out at a five-foot height.

(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 and shall read:

#### Tree Protection Area

Prohibited within this area:

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

#### Area de Protection de Arboles

Prohibido dentro de esta area:

1. Aparcar o uso de vehiculo, equipamiento, o maquinaria.



2. Almacenar o tirar de líquidos o materiales.

3. Construction, excavation 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 or machinery.

(2) Storing or dumping any material or liquids or

(3) Construction, excavation or trenching.

(f) Permit/inspection boxes, wires, braces, nails, screws, bolts, chains, ropes, lights, antennas, flags, 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 in writing by the city.

(Ord. No. 2724-07, § 1, 10-8-07)

**Sec. 58-293. - Precautions required for significant grade changes for protected trees.**

(a) Grade changes involving the addition of more than three inches of fill material will require a dry well to be constructed around the trunk of the protected tree encompassing an area equal to the drip-line of the protected tree, as defined in [section 58-282](#). The addition of fill is not allowed within the drip-line of pine trees unless authorized by the city.

(1) Dry wells constructed of crushed stone and piping shall be constructed to allow the passage of air and water to tree roots and shall be installed at the original grade.

(2) Dry wells shall be protected from washout by raising the well copings above the surrounding terrain.

(3) No part of the dry well shall be closer than three feet from the trunk of the protected tree.

(b) Grade changes involving the removal of more than three inches of soil within a protected tree's drip-line or projected drip-line are not allowed. The removal of any soil is not allowed within the drip-line of pine trees. Before any grade changes involving the removal of up to three inches of soil, the property owner or permittee shall:

(1) Leave the area within the drip-line at its original grade with terraces by use of dry retaining walls at the drip-line that are constructed to allow for drainage and aeration;

(2) Cut roots cleanly and re-trim them after excavation;

(3) Cover exposed root system and keep moist;

(4) Irrigate tree to compensate for root loss.

(Ord. No. 2724-07, § 1, 10-8-07)

**Sec. 58-294. - Precautions required for excavation and paving around protected trees.**

(a) Whenever possible, water, sewer, and other underground utility lines shall be routed around the drip-lines of protected trees.

(b) If compliance with subsection (a) is impossible, then tunneling or directional boring for the utility shall be routed under the protected tree's root zone to prevent damage to major roots. Mechanical trenching is prohibited.

(c) Suitable pervious pavement may be placed within the drip-line of a protected tree as long as the tree is not damaged by grade change, soil compaction, or any other cause. There is to be no disturbance to the trunk root flair.

(Ord. No. 2724-07, § 1, 10-8-07)

**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.

(Ord. No. 2724-07, § 1, 10-8-07)

**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 in any street, park, city right-of-ways or easement, or other public place within the city limits, and shall have the power to plant, care for, maintain, remove, and replace such trees.

(Ord. No. 2724-07, § 1, 10-8-07)

## **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 city. Protected trees of any size on private or public property shall not be cut by topping.
- (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.

(Ord. No. 2724-07, § 1, 10-8-07)

## **Sec. 58-299. - Penalties for tree removal without required permit or for tree damage.**

- (a) Any protected tree(s) removed without a permit or destroyed or receiving major damage 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 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, and in the alternative or in addition to revoke or suspend a contractor's license to do business in the city.

(Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2895-12, § 1, 11-26-12)

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

(a) The 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.

(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.

(Ord. No. 2724-07, § 1, 10-8-07; Ord. No. 2895-12, § 1, 11-26-12)

**Secs. 58-301—58-320. - Reserved.**

Sec. 58-331. - Purpose and intent.

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

- (1) Maintaining and protecting property values;
- (2) Providing an acceptable degree of transition between abutting uses;
- (3) Providing appropriate barriers and relief from traffic, noise, heat, glare, and the spread of dust and debris;
- (4) Conserving and extending the city's water supply and natural resources through the implementation of water-efficient landscape practices;
- (5) Enhancing the visual and aesthetic appearance of the community; and
- (6) Creating sustainable landscape areas of an adequate size to enable plant material to successfully mature.
- (7) Contributing to the city's reforestation plan

(Ord. No. 2766-09, § 1, 4-27-09)

Sec. 58-332. - Definitions.

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

*Caliper* shall mean a nursery standard measurement of a tree's trunk diameter as measured at a predetermined point of measurement. Trunk caliper for trees up to four inches shall be measured six inches above the soil line. Trees greater than four inches in caliper shall be measured 12 inches above the soil line.

*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, four and one-half feet above the soil line. For multitrunked trees, the dbh shall mean the cumulative diameter of the two largest trunks divided by two.

*Existing tree* shall mean an existing healthy species of tree with a minimum dbh of one and one-half inches which normally grows to a mature height of 40 feet or more and is not listed as a prohibited plant. Existing trees may be counted to meet some portions of this Code.

*Florida-Friendly Landscaping* shall mean a statewide program that encourages landscape design, installation, and maintenance practices that conserve water, reduce runoff of fertilizers and minimize the need for pesticides (<http://www.floridayards.org/>).

*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 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.

*High-water use zone* shall be an area(s) of a property that receives the application of landscape irrigation by use of rotors, or sprays with application rates greater than 60 gallons per hour (gph).

*Irrigation plan* shall mean a scaled plan (no greater than 30 scale) showing protected trees, turf and high-, moderate-, and low-water use zones separately outlined and illustrated with their separate zones of irrigation. (See division 9., irrigation regulations.)

*Landscape plan* shall mean a scaled plan (no greater than 30-scale) showing the whole property, plant materials, complementary hardscape elements such as fountains, sculpture, masonry, walls, tree wells and water use areas.

*Landscaping* shall mean the use of plants, construction and grading to create a desired effect. Landscaping elements may consist of, but are not limited to, turf and other ground covers, shrubs, vines, hedges and trees.

*Landscape architect* shall mean a design professional registered in the state as defined by F.S. ch. 481, pt. II, Landscape Architecture.

*Low-water use zone* shall mean an area(s) of a property that receives the application of landscape irrigation by only rainfall or the use of micro-irrigation.

*Masonry wall* shall mean a wall and footing constructed of masonry material meeting the requirements of the Florida Building Code and Land Development Code, subsection 58-82(p)(8).

*Ordinary high-water level* shall mean the level that a lake can be expected to reach during a "ordinary" wet season. Refer to Land Development Code, subsection 58-83(d)(5) for lake elevations.

*Open storage area* shall mean an outdoor area used to store equipment, materials, or products.

*Parkway* shall mean the area in the public right-of-way between the edge of pavement or curb and the sidewalk or public right-of-way line.

*Prohibited plant species* or *invasive plant* shall mean a naturalized tree or plant that disrupts naturally occurring native plant communities as determined by the State of Florida Department of Agriculture and Consumer Services and the Florida Department of Environmental Protection as listed in section 58-149, prohibited plant species. The most up-to-date lists shall rule.

*Rain sensor* shall mean a device connected to the automatic controller of an in-ground irrigation system that will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred. F.S. § 373.62 requires that "Any person who purchases and installs an automatic lawn sprinkler system after May 1, 1991, shall install, and must maintain and operate, a rain sensor device or switch that will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred."

*Service area* shall mean an equipment area, loading area or dock, trash collection area, trash compaction area, truck parking area, recycling area, or other similar service function area.

*Shade tree* shall mean a species of tree which normally grows to a mature height of 40 feet or more and is listed in section 58-341, 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.

*Understory tree* shall mean a species of tree 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 one-inch caliper at planting.

*Vehicular use area* shall mean any paved or unpaved ground surface area used for storage, display, temporary parking, and/or maneuvering of vehicles by employees or customers, either for compensation or to provide an accessory service to a commercial, industrial, or residential use, excluding single-family and duplex residences.

*Vine* shall mean a species of vine listed in 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.

(Ord. No. 2766-09, § 1, 4-27-09)



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:
  - (1) *Right plant, right place*: Plants selected to suit a specific site will require minimal amounts of water, fertilizers, and pesticides.
  - (2) *Water efficiently*: Irrigate only when your lawn needs water. Efficient watering is the key to a healthy yard and conservation of limited resources.
  - (3) *Fertilize appropriately*: Less is often best. Over-use of fertilizers can be hazardous to your yard and the environment.
  - (4) *Mulch*: Maintain two to three inches of mulch to help retain soil moisture, prevent erosion and suppress weeds.
  - (5) *Attract wildlife*: Plants in your yard that provide food, water, and shelter can conserve Florida's diverse wildlife.
  - (6) *Manage yard pests responsibly*: Unwise use of pesticides can harm people, pets, beneficial organisms and the environment.
  - (7) *Recycle*: Grass clippings, leaves and yard trimmings composted and recycled on site provide nutrients to the soil and reduce waste disposal.
  - (8) *Reduce stormwater runoff*: Water running off your yard can carry pollutants, such as fertilizer, pesticides, soil, and debris that can harm water quality. Reduction of this runoff will help prevent pollution.
  - (9) *Protect the waterfront*: Waterfront property, whether on a river, stream or pond, is very fragile and should be carefully protected to maintain freshwater and marine ecosystems.
- (b) All protected trees shall be provided with tree protection areas and barriers as required by Division 6, Tree Removal and Protection, Section 58-292.
- (c) Mulch created from cypress trees is prohibited.
- (d) The use of fertilizer with phosphorus shall conform to statutory requirements.
- (e) Water-edge properties.
  - (1) The use of any fertilizer is prohibited within 20 feet of the ordinary high-water level or a seawall.
  - (2) Grading, construction or the clearing of any vegetation other than prohibited plants is prohibited within ten feet of the ordinary high-water level or a seawall.
  - (3) Stormwater retention is not allowed within ten feet of the ordinary high-water level or a seawall.
  - (4) Berms required to protect water bodies must be maintained as permitted.
  - (5) Natural wetland vegetation should be enhanced with additional plantings. The FDEP's book, Florida Wetland Plants: An Identification Manual, is an excellent reference source for information on plant materials. Copies of the identification manual can be purchased by contacting the Orange County extension office at 407-836-7570 or UF/IFAS Publications at 1-800-226-1764.
  - (6) Trees shall be required along shorelines as noted in section 58-335.
- (f) Per State of Florida Statutes, call Sunshine State One (811, <http://www.callsunshine.com>) 72 hours prior to digging to have all utilities located.
- (g) All automatic in-ground irrigation systems shall have a functioning rain sensor as required by Florida Statute.

- (h) No person shall wash, sweep, or blow off fertilizers, vegetative material, and/or vegetative debris into stormwater drains, ditches, conveyances, water bodies, wetlands, or sidewalks or roadways.
- (i) Deviations due to topography, building layout, or other special circumstances may be granted by the building official, the planning and zoning board, or the city commission on a case-by-case basis subject to meeting the intent of the landscape regulations.

(Ord. No. 2766-09, § 1, 4-27-09; Ord. No. 2875-12, § 6, 6-11-12)

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 ss 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 Subsection 58-336(e)(1) to prevent having a parking space deficit for the property. Where feasible, the requirements of 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 and shade trees.
  - (1) In some situations as noted within this division, understory trees may be substituted two for one (2:1) for required shade trees.
  - (2) Understory trees shall be used instead of shade trees under and within 15 feet of overhead power lines.
  - (3) 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.
  - (4) Shade and understory tree trunks measured from the trunk centerline shall be a minimum distance of four feet from curbs, walks, pavement, walls, and underground utilities with the exclusion of city-owned public rights-of-way.
  - (5) Shade trees shall be spaced no closer than 25 feet.
- (d) Prohibited plant species shall not count as an existing tree or plant to meet any part of this Code.
- (e) All prohibited plant species shall be removed from each site prior to the beginning of construction.
- (f) All landscape material shall be in conformance with the Standards for "Florida No. 1" or better as established in the latest Florida Grades and Standards Manual for Nursery Plants by State of Florida Department of Agriculture and Consumer Services, Division of Plant Industries (<http://www.doacs.state.fl.us/pi/pubs.html>).
- (g) All ground-mounted utilities except electrical transformers shall be painted green or flat black unless a different color is required by City or State of Florida Code.
- (h) Air conditioning units, pool equipment, electrical equipment, utility boxes, generators, above-ground fuel tanks, and stored trash containers on private property shall not be easily visible from a public right-of-way. They shall be screened by structures, solid fences, trellises, and/or landscaping.

Exceptions may be made for electrical equipment when determined appropriate by the city. Also refer to subsection 58-82(k)(2)b, (accessory structures).

- (i) Deviations due to topography, building layout, or other special circumstances may be granted on a case-by-case basis subject to meeting the intent of the landscape regulations.
- (j) For requirements for stormwater, see chapter 58, article V, division 1, stormwater management.
- (k) Only bamboo species that grow to less than 20 feet in height shall be permitted beneath or within 5 feet of overhead electric utility lines.

(Ord. No. 2766-09, § 1, 4-27-09)

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.
- (c) Shade trees shall be required in the parkway at the rate of one per 33 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 shade tree required per lot. Healthy existing shade trees count towards required shade trees. If overhead power lines or shade trees are present within 25 feet, then understory 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 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 33 feet of shoreline within 25 feet of the shoreline with a minimum of one shade tree per lot. 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 33-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.

(Ord. No. 2766-09, § 1, 4-27-09)

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 director of the city 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.
  - (1) Landscape plans shall be prepared, signed, and sealed by a landscape architect currently licensed by the State of Florida.

- (2) The landscape plan shall include:
  - a. Protected trees indicated by type and size and the proposed preservation or removal of these trees pursuant to the city's tree ordinance;
  - b. Plant material to be used listed with botanical names according to genus, species, variety, common name, size, spacing, and quantity;
  - c. Hardscape elements such as walls, patios, walks, and vehicle use areas and location of utility equipment;
  - d. Turf and high-, moderate-, and low-water use zones; and
  - e. A chart showing all calculations and required/supplied plantings.
- (b) *General.*
  - (1) Seventy percent of pervious areas shall be low-water use zone(s) with the allowance for watering container plantings anytime with low-volume irrigation on a separate irrigation zone on a separate controller program. Low-water use zones shall be on a separate irrigation zone(s). See division 9, irrigation regulations, for specific requirements.
  - (2) To decrease watering needs, high-water use zones less than 300 square feet or within an area with any one dimension less than ten feet shall be prohibited.
  - (3) Chain link fences are prohibited except in industrial and recreational areas where their use is limited to nonstreet frontage areas of a building and not adjacent to residential. See subsection 58-82(p) of the zoning article.
- (c) *Buffer between one- and two-family dwellings and public rights-of-way.*
  - (1) A buffer of shade and understory trees shall be required where vehicle use areas do not adjoin one- and two-family dwellings and public rights-of-way. Two shade trees and three understory trees shall be required for each 100 linear feet of landscape area.
- (d) *Building facade landscaping.*
  - (1) When building facades are visible from any public rights-of-way, one hundred percent of the total length of the visible facade(s), exclusive of those areas required for direct access to the building or special architectural features not intended to be screened by landscaping, shall have a landscape area.
  - (2) The landscape area shall contain plants and be a minimum width of six feet located within a 20-foot distance of the facade(s) or if adjacent to the building facade it shall be at least eight feet in width.
  - (3) At least 50 percent of the plants shall be a minimum height of twelve 12 inches at the time of planting and achieve a minimum of two feet in height.
  - (4) A minimum of five understory trees shall be required for each one hundred linear feet of the required landscape area.
  - (5) A minimum distance of 12 feet between any required shade tree trunk centerline and any exterior wall must be provided.
  - (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 area width for shade trees shall be seven feet. Understory trees may be substituted two for one (2:1) for required shade trees if the planting area width is less than seven feet. The minimum planting area width for understory trees shall be four feet.
- (e) *Vehicle use area landscaping.*
  - (1) The vehicle use area shall be landscaped and screened from view. A landscape area a minimum of eight feet in width shall be required along public rights-of-way and shall consist of a

hedge, one shade tree, and one understory tree for each 50 linear feet of the required landscaped area deducting paved areas. Other vehicle use area landscape areas shall be planted with ground cover or other appropriate landscape material. Reasonable breaks in landscaping in vehicular use areas shall be made to allow pedestrian access through parking areas to points of destination. Vehicle parking spaces directly abutting the landscaped buffer along public rights-of-way may count two feet of the eight-foot buffer toward meeting the required 18-foot parking space length and no additional bumper or curb stop shall be required in these spaces other than the curbing along the landscaped buffer.

- (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 60 linear feet of landscape area. Adjacent existing trees may require the substitution of understory 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 trees spaced every 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 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. An in-ground irrigation system shall be provided in order to ensure that all planting materials will grow and thrive.

Solid waste containers, trash containers, storage enclosures or any other structures shall not be constructed or placed in locations that are visible to the residential properties on the opposite side of the street.

- (3) The vehicle use area shall contain interior landscape areas that account for a minimum of seven and one-half percent of the vehicle use area. Each separate landscape island or area shall be a minimum of 216 square feet in size with a 12-foot width (measured at backs of curbs) with an 18-foot depth and shall contain at least one shade tree in each island or area. All interior and perimeter landscaping shall be protected from vehicular encroachment by curbing and wheel stops. All vehicle use area base materials (lime rock, soil cement, etc.) shall not extend further than six inches from the back of curbs into the landscape areas.

- (4) Landscape islands shall be required so that there are no more than a maximum of ten continuous parking spaces in a row unless a change in spacing allows preservation of healthy existing trees in the parking row. Landscape areas with one shade tree each shall be required at the end of each row of parking.
- (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 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 diameter shall be planted within the stormwater retention area for each 50 linear feet of the stormwater retention area.
- (h) *Intersection and right-of-way visibility.* When an accessway intersects a public right-of-way, landscaping may be used to define the intersection, provided that all landscaping within the triangular areas described in subsections (f)(1) and (2) below shall provide unobstructed cross-visibility at a level between two and one-half feet in height and eight feet in height. Trees and foliage shall be periodically pruned and trimmed so that no limbs or foliage extend into the cross-visibility zone. Landscaping, except for grass and similar low ground cover, shall not be located closer than three feet from the edge of any accessway. The triangular areas referenced above shall satisfy the following dimensional requirements, except to the extent deemed unnecessary by the city engineer.
- (1) The areas of property on both sides of an accessway formed by the intersection of each side of the accessway and the public right-of-way line with two sides of each triangle being ten feet in length from the point of intersection and the third side being a line connecting the ends of the other sides;
- (2) The area of property located at a corner formed by the intersection of two or more public rights-of-way with two sides of the triangular area being measured 30 feet in length along the abutting edges of pavement, from their point of intersection, and the third being a line connecting the ends of the other two lines; and
- (3) Landscaping shall not block roadway signage.
- (i) *Service areas.* Service areas visible from a public right-of-way or abutting property shall be screened by a solid wall and hedge maintained at a six-foot height in a minimum four-foot wide planting area clear of walls or their footers. A vine maintained at a six-foot height in a minimum two-foot wide planting area clear of walls or their footers may be substituted for a hedge. The wall shall be a minimum of six feet in height using architectural design, materials, and colors that are consistent with those of the primary structure.
- (j) *Solid waste storage areas.* All solid waste refuse facilities shall be screened on three sides by a solid wall with opaque gates and a hedge maintained at a six-foot height in a minimum four-foot-wide planting area clear of wall footers. A vine maintained at a six-foot height in a minimum two-foot-wide planting area clear of wall footers may be substituted for a hedge. The wall shall be a minimum of six feet in height using architectural design, materials, and colors that are consistent with those of the primary structure. Smaller planting areas around the container or alternate methods to accomplish the goal of an attractive enclosure may be authorized in existing parking lots and new projects with limited space.
- (k) *Open storage area.* An open storage area shall not be permitted unless it is totally screened from the public right-of-way and any adjacent properties by a solid wall and hedge maintained at a six-foot height in a minimum four-foot wide planting area clear of wall footers. A vine maintained at a six-foot height in a minimum two-foot wide planting area clear of walls or their footers may be substituted for a hedge. The wall shall be a minimum of six feet in height using architectural design, materials, and colors that are consistent with those of the primary structure.

- (l) *Merchandise display areas.* A merchandise display area (e.g., garden centers), that is within 100 feet of a public right-of-way shall be fenced by decorative metal or solid vinyl privacy fencing. Additionally, the merchandise display area shall be landscaped, integrated into the design of the primary structure using landscaping adjacent to the perimeter, and utilize one of the following techniques:
  - (1) Masonry columns using architectural design, materials, and colors that are consistent with those of the primary structure, spaced a minimum of 25 feet apart; or
  - (2) A freestanding wall using architectural design, materials, and colors that are consistent with those of the primary structure along the entire length of the fenced merchandise display area that covers at least 50 percent of the fenced storage 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 an eight-foot wide planting area of an appropriate length with a hedge maintained at a minimum height of six feet and one understory tree for each 15 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 15 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.
- (n) For parking requirements, see article III, zoning, chapter 58-81, off-street parking and loading regulations.

(Ord. No. 2766-09, § 1, 4-27-09; Ord. No. 2875-12, § 6, 6-11-12)

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

- (a) All properties undergoing initial development or redevelopment involving new construction, renovation, or expansion of the improvements on any property 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.
- (b) All landscaping shall be installed according to accepted commercial planting procedures. Soil shall be free of lime rock and other construction debris. All vehicle use area base materials (lime rock, soil cement, etc.) shall not extend further than six inches from the back of curbs into the landscape areas.
- (c) Landscape areas along curbs shall be inspected by the city at the time of rough grading inspection and shall be certified free of base materials beyond six inches from the back of curb.
- (d) Nonbiodegradable landscape/weed barrier fabric is prohibited.
- (e) Finished grade prior to mulching or sodding shall be three inches below the top of adjacent surfaces such as walks, curbs, and driveways extending perpendicularly from the surface edge for a minimum distance of 18 inches. Tree roots larger than one inch in diameter shall not be disturbed.
- (f) Trees and palms shall be installed so their top main root at the trunk/root flare is visible and two inches above finished grade. Do not apply the one inch of mulch to the top of the rootball until after inspection of each tree or palm.
- (g) Remove all rootball coverings (unless biodegradable or metal baskets which shall be folded back below finished grade), tags, ties, wires, ropes, stakes and nursery attachments from all plant material.
- (h) A layer of organic mulch derived from a renewable resource such as pine trees, eucalyptus, or melaleuca to a minimum depth of three inches shall be required in plant beds with one inch on tree/palm rootballs. Mulch from cypress trees, stone, rubber, or inorganic mulch is prohibited. Mulch rings around trees and turf areas shall be a minimum four feet in diameter. Mulch shall not be required in annual beds or containers. Mulch shall not touch trunks or stems or be applied within the

crowns of ground covers or over their branches or foliage. A layer of stone over a nonwoven soil separator may be used only for drainage purposes or in utility areas.

- (i) All plant material shall be maintained in a plumb, upright and stable condition. 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 parks director or his designee.

(Ord. No. 2766-09, § 1, 4-27-09)

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

The protection and/or removal of existing trees at 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 type and size and the proposed preservation or removal pursuant to the city's tree ordinance.

(Ord. No. 2766-09, § 1, 4-27-09)

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 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 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 parks director or his designee may approve additions or exceptions to this list.

PROHIBITED PLANT SPECIES

TABLE 1

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. Orobanche 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* (Afrian boxthorn).
- (gg) *Lygodium japonicum* (Japanese climbing fern).
- (hh) *Lygodium microphyllum* (small-leaved climbing fern).
- (ii) *Melaleuca quinquenervia* (melaleuca). <sup>1</sup>
- (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). <sup>1</sup>
- (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). <sup>1</sup>
- (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 lead 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 floating rush

*Lythrum salicari*—purple loosestrife

*Melaleuca quinquenervia*—melaleuca

*Mimosa pigra*—giant sensitive plant, cat's claw

*Monochoria hastata*

*Monochoria vaginalis*

*Myriophyllum spicatum*—Eurasian watermilfoil

*Nepenthes aquatica*

*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

(Ord. No. 2766-09, § 1, 4-27-09)

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 silicola	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
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**UNDERSTORY TREES**  
**TABLE 3**

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

BOTANICAL NAME	COMMON NAME
Aesculus pavia	Red buckeye M
Cercis canadensis	Red bud L
Chionanthus retusus	Chinese fringe tree M
Chionanthus virginicus	Fringe tree M
Crataegus spp.	Hawthorn species L
Elaeocarpus decipiens	Japanese blueberry tree M
Eriobotrya japonica	Loquat tree M
Forestiera segregata	Florida privet L
Ilex cornuta 'Burfordii'	Burford holly M
Ilex vomitoria	Yaupon holly L
Ilex vomitoria 'Pendula'	Weeping yaupon holly L
Lagerstroemia indica	Crape myrtle L
Ligustrum japonicum (tree form)	Japanese privet tree L
Magnolia grandiflora 'Little Gem'	Little Gem magnolia M
Myrcianthes fragrans	Simpson's stopper L

Parkinsonia aculeata	Jerusalem thorn L
Prunus umbellata	Flatwoods plum M
Viburnum obovatum	Walters viburnum L
Vitex agnus-castus '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
Acca sellowiana	Pineapple Guava/Feijoa L
Cestrum aurantiacum	Golden jasmine M
Elaeagnus pungens	Silverthorn L
Forestiera segregata	Florida privet L
Ilex cornuta 'Dwarf Burford'	Dwarf Burford holly L
Ilex glabra	Gallberry M
Ilex vomitoria	Yaupon holly L
Illicium parviflorum	Yellow anise M
Podocarpus macrophyllus	Yew podocarpus L
Ternstroemia gymnanthera	Japanese cleyera M
Viburnum obovatum	Walters viburnum L
Viburnum odoratissimum	Sweet viburnum M

**TABLE 5**

BOTANICAL NAME	COMMON NAME
<i>Aristida stricta</i>	Wiregrass L
<i>Eragrostis elliottii</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>Sorghastrum secundum</i>	Lopsided indiangrass L
<i>Spartina bakeri</i>	Cord grass L
<i>Spartina patens</i>	Saltmeadow cord grass L
<i>Tripsacum dactyloides</i>	Fhakahatchee 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
<i>Bignonia capreolata</i>	Cross vine L
<i>Ficus pumila</i>	Creeping fig L
<i>Lonicera sempervirens</i>	Coral honeysuckle L

Trachelospermum jasminoides	Confederate jasmine L
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**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
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
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(Ord. No. 2766-09, § 1, 4-27-09)

Sec. 58-342. - Enforcement.

- (a) The parks 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.
- (c) 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.

(Ord. No. 2766-09, § 1, 4-27-09)

Secs. 58-343, 58-344. - Reserved.

DIVISION 9. - IRRIGATION REGULATIONS [\[7\]](#)

Footnotes:

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**Editor's note**— Ord. No. 2767-09, § 4, adopted Apr. 27, 2009, renumbered the former div. 9, exterior lighting standards, as div. 10.

Sec. 58-345. - Purpose and intent.

To establish uniform minimum standards and requirements for the design and installation of safe, cost-effective, reliable irrigation systems for turf and landscape areas that promote the efficient use and protection of water and other natural resources and to implement procedures that promote water conservation. In order to provide for the safe and prudent use of said resources, the regulations set forth in this division shall be applicable year-round. However, St. Johns River Water Management District's (SJRWMD) respective rules shall supersede the regulations set forth in this division, when applicable.

(Ord. No. 2767-09, § 1, 4-27-09)

Sec. 58-346. - Applicability.

- (a) This division shall apply to landscape irrigation for residential and nonresidential properties, regardless of whether the water comes from a private well, lake, pond, or other surface water source, or a water supply utility, unless otherwise exempted under section 58-352.
- (b) 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 irrigation 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 section 58-348. Commercial and multifamily properties must meet these requirements as part of any expansion.
- (c) This division shall apply to all irrigation systems used on residential and nonresidential landscape areas. This addresses the design requirements, water quality, materials, installation, inspection, and testing for such systems. This division does not apply to irrigation systems for golf courses, nurseries, greenhouses, or agricultural production systems.
- (d) Nothing contained in this division shall be deemed to require any irrigation system or part thereof which existed prior to the establishment of this division, to be changed, altered, or modified to meet the standards of this division, unless governed by this section.

(Ord. No. 2767-09, § 1, 4-27-09)

Sec. 58-347. - Definitions.

For the purposes of this division, certain terms or words used herein shall be interpreted as follows except where the context may clearly indicate a different meaning:

*Address* means the house number of a physical location of a specific property. This includes "rural route" numbers but excludes post office box numbers. If a lot number in a mobile home park or similar community is used by the U.S. Postal Service to determine a delivery location, the lot number shall be the property's address. An "even-numbered address" means an address ending in the numbers 0, 2, 4, 6, 8 or the letters A—M. An "odd-numbered address" means an address ending in the numbers 1, 3, 5, 7, 9 or the letters N—Z.

*Automatic controller* means a mechanical or electronic device capable of automated operation of valve stations to set the time, duration, and frequency of water application, using a minimum of two programs that allow water use zones to be irrigated at different frequencies.

*Best management practices (BMPs)* means the practice or combination of practices based on research, field testing and/or expert review, determined to be the most effective and practicable on-location means, including economic and technological consideration, for improving water quality, conserving water supplies, and protecting natural resources.

*Common areas* means those portions of a building, land, or amenities owned (or managed or maintained) by the condominium owners' association, property owners' association or homeowners' association that are used by all of the tenants and/or owners who share in the common expenses for their operation and maintenance. Examples of common areas include swimming pools, tennis courts and other recreational areas, parking areas, areas of ingress or egress, rights-of-way, or medians.

*District* means the St. Johns River Water Management District (SJRWMD).

*Ground cover* means plants used in mass to replace turf or create variety in landscape design; usually not having a mature height over two feet. This term does not include turf.

*High-volume irrigation system* means the application of water by use of rotors or sprays, with application rates greater than 60 gallons per hour (gph).

*High-water use zone* means an area of a property that receives the application of landscape irrigation by use of rotors, or sprays with application rates greater than 60 gallons per hour (gph.).

*Irrigation runoff* means excess water flow produced by the watering of landscape or turfgrass by irrigation that causes water to be placed on, or flow onto, surfaces such as roadways, sidewalks, driveways, culverts, ditches, or canals.

*Landscape irrigation* means the outside watering of plants in a landscape such as shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens and other such flora that are situated in such diverse locations as residential areas, public, commercial and industrial establishments, and public medians and rights-of-way. Landscape irrigation does not include agricultural crops, nursery plants, cemeteries, golf course greens, tees, fairways, primary roughs, and vegetation associated with intensive recreational areas, such as playgrounds, football, baseball and soccer fields.

*Licensed contractors or professional* means a licensed professional or specialty contractor in accordance with Florida State laws.

*Low-water use zone* means an area of a property that receives the application of landscape irrigation by only rainfall or the use of micro-irrigation.

*Micro-irrigation (also known as low-volume or drip irrigation system)* means the application of small quantities of water directly on or below the soil surface, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes (laterals). Micro-irrigation encompasses a number of methods, including drip and subsurface rates of 60 gallons per hour (GPH) or less.

*Nonresidential landscape irrigation* means the irrigation of landscape not included within the definition of "residential landscape irrigation," such as that associated with public, commercial and industrial property, including commercial or transient housing units, hotel and motel units, and public medians and rights-of-way.

*Person* means any person, natural or artificial, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee, or any other legal entity, the United States of America, and the State of Florida and all political subdivisions, regions, districts, municipalities, and public agencies.

*Rain sensor* means a device connected to the automatic controller of an in-ground irrigation system that will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred. (See F.S. § 373.62).

*Reclaimed water (also known as reuse water)* means domestic wastewater that has received extensive treatment and disinfection, and meets the standards defined by the Florida Department of Environmental Protection (FDEP) to ensure the protection of public health and environmental quality. For the purpose of this article, a reclaimed or reuse water system includes any system in which the primary source is reclaimed water, which may or may not be supplemented by water from another source.

*Recycled water* means the use of an industrial water source that is captured and redirected back into the same water use scheme.

*Residential landscape irrigation* means the irrigation of landscape associated with any housing unit having sanitary and kitchen facilities designed to accommodate one or more residents, including multiple-housing units and mobile homes.

*Surface water* means water located on or above ground and includes natural and manmade sources (e.g., lakes, ponds, retention areas, and streams). This term does not include swimming pools.

*Turf or turfgrass* means a mat layer of monocotyledonous plants, including, but not limited to, Bahia, Bermuda, Centipede, Paspalum, St. Augustine, and Zoysia.

*Water utilities director* means the Director of the City of Winter Park Water and Wastewater Utilities Department or his authorized designee.

*Wet detention* means the collection and temporary storage of stormwater in a permanently wet impoundment in such a manner as to provide for treatment through physical, chemical, and biological processes with subsequent gradual release of the stormwater.

(Ord. No. 2767-09, § 1, 4-27-09)

Sec. 58-348. - Landscape and irrigation system design criteria.

*Plans or drawings.*

- (1) One- and two-family dwellings: Plans are not required unless required as a condition of approval of a city board or commission. A minimum of 40 percent of the pervious areas on each property must be low-water use irrigation with allowance for watering container plantings and other plantings anytime with micro-irrigation on a separate irrigation zone and program.
- (2) Nonresidential and multifamily projects: Provide drawings designed by a landscape professional at the time of building permit application. Design drawings shall be clearly readable, to reasonable scale, show the entire site to be irrigated including all improvements, and shall include, but not be limited to: date, scale, revisions, legend, and specifications that list all aspects of equipment and assembly thereof, water source, water meter, point of connection, backflow prevention devices, pump station size, pump station location, design operating pressure and flow rate per zone, locations of pipe, controllers, valves, rain sensor, sprinklers, sleeves, gate valves, etc. A minimum of 70 percent of the pervious areas must be low-water use with allowance for watering container plantings and other plantings anytime with micro-irrigation on a separate irrigation zone and program.
- (3) The abutting public right-of-way shall be included in the water use area calculation for the subject property.
- (4) The permit applicant or owner shall acknowledge in writing of intended compliance with the water use criteria prior to receiving a final inspection of the project.

(Ord. No. 2767-09, § 1, 4-27-09)

Sec. 58-349. - Landscape irrigation schedules.

- (a) When Daylight Savings Time is in effect, landscape irrigation shall occur only in accordance with the following irrigation schedule:
  - (1) Residential landscape irrigation at odd-numbered addresses or no address may occur only on Wednesday and Saturday and shall not occur between 10:00 a.m. and 4:00 p.m.;
  - (2) Residential landscape irrigation at even-numbered addresses may occur only on Thursday and Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.;
  - (3) Nonresidential landscape irrigation may occur only on Tuesday and Friday and shall not occur between 10:00 a.m. and 4:00 p.m.;
  - (4) No more than three-quarters-inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than one hour per irrigation zone on each day that irrigation occurs.
- (b) When Eastern Standard Time is in effect, landscape irrigation shall occur only in accordance with the following irrigation schedule:
  - (1) Residential landscape irrigation at odd-numbered addresses or no address may occur only on Saturday and shall not occur between 10:00 a.m. and 4:00 p.m.;

- (2) Residential landscape irrigation at even-numbered addresses may occur only on Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.;
  - (3) Nonresidential landscape irrigation may occur only on Tuesday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
  - (4) No more than three-quarter-inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than one hour per irrigation zone on each day that irrigation occurs.
- (c) All landscape irrigation shall be limited in amount to only that necessary to meet landscape needs.

(Ord. No. 2767-09, § 1, 4-27-09)

Sec. 58-350. - Irrigation systems and application of water.

- (a) *New or substantially altered irrigation systems.* All new irrigation systems installed or substantially modified as described in section 58-346 shall comply with the requirements set forth in this section:
- (1) Irrigated zones shall receive only one form of spray, rotor, bubbler, drip or other irrigation application.
  - (2) Irrigated turf areas shall be on a separate program with irrigation zones separate from other landscape plant groupings.

(Ord. No. 2767-09, § 1, 4-27-09)

Sec. 58-351. - Irrigation system equipment installation and maintenance requirements.

- (a) Irrigation systems shall be designed, constructed, or substantially modified by licensed contractors or professionals; provided, however, to the extent otherwise authorized by Florida law or this article, a homeowner or property owner may construct, maintain and repair an irrigation system on his or her property.
- (b) All irrigation equipment shall be operated in accordance with the individual system guidelines and maintained in good working order to prevent leaks and wasteful or unnecessary use of water. Irrigation runoff and overspray shall be minimized to the maximum extent practicable. The brief operation of an irrigation system for the purpose of testing, adjustment and repair is permitted at anytime, but run time may not exceed 20 minutes per hour per zone.
- (c) All hand-held water hoses in use for landscape irrigation shall be equipped with a functional automatic shut-off nozzle.
- (d) Automatic irrigation systems shall be equipped with a functional rain sensor device. The backup battery in the timer or controller should be replaced annually unless it is a constantly recharging battery.
- (e) Broken or misdirected irrigation spray heads, irrigation system leaks, and other irrigation system malfunctions shall be repaired.

(Ord. No. 2767-09, § 1, 4-27-09)

Sec. 58-352. - Exceptions to the landscape irrigation schedules.

Landscape irrigation shall be subject to the following irrigation schedule exceptions:

- (1) Irrigation using a micro-spray, micro-jet, drip or bubbler irrigation system is allowed anytime.

- (2) Irrigation of new landscape is allowed at any time of day on any day for the initial 30 days and every other day for the next 30 days for a total of one 60-day period, provided that the irrigation is limited to the minimum amount necessary for such landscape establishment.
- (3) Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides, when required by law, the manufacturer, or best management practices, is allowed at any time of day on any day within 24 hours of application. Watering in of chemicals shall not exceed one-quarter-inch of water per application except as otherwise required by law, the manufacturer, or best management practices.
- (4) Irrigation systems may be operated at any time of day on any day for maintenance and repair purposes not to exceed 20 minutes per hour per zone.
- (5) Irrigation using a hand-held hose equipped with an automatic shut-off nozzle is allowed at any time of day on any day.
- (6) Discharge of water from a water-to-air air-conditioning unit or other water-dependent cooling system is not limited.
- (7) The use of water from a reclaimed water system is allowed anytime. For the purpose of this section, a reclaimed water system includes systems in which the primary source is reclaimed water, which may or may not be supplemented from another source during peak demand periods.
- (8) The use of recycled water from wet detention treatment ponds for irrigation is allowed anytime provided the ponds are not augmented from any ground or off-site surface water, or public supply sources.

(Ord. No. 2767-09, § 1, 4-27-09)

Sec. 58-353. - Rain sensors.

Any person who irrigates landscape with an automatic lawn sprinkler system installed after May 1, 1991, shall install, maintain and operate a rain sensor device or switch that overrides the irrigation system when adequate rainfall has occurred.

(Ord. No. 2767-09, § 1, 4-27-09)

Sec. 58-354. - Water shortages.

When the SJRWMD declares a water shortage pursuant to Florida Administrative Code, Chapter 40C-21, the specific restrictions in conflict with the regulations set forth in this article shall supersede the provisions in this division.

(Ord. No. 2767-09, § 1, 4-27-09)

Sec. 58-355. - Variances.

All requests for a variance(s) from the requirements of this article shall be made in writing to the water utilities director. The water utilities director may require the applicant for a variance to provide such information as necessary to carry out the purpose of this division. The water division manager may approve, approve with conditions or deny requests for variances. A variance from the specific days or day set forth in section 58-349 may be granted if strict application of the scheduled days or day would lead to unreasonable or unfair results in particular instances, provided that the applicant demonstrates that compliance with the requirement(s) will result in a substantial economic, health or other hardship on the applicant requesting the variance or those served by the applicant. Where a contiguous property is

divided into different zones, a variance may be granted hereunder so that each zone may be irrigated on different days than other zones of the property; however, no single zone may be irrigated more than two days a week during Daylight Savings Time or more than one day per week during Eastern Standard Time.

(Ord. No. 2767-09, § 1, 4-27-09)

Sec. 58-356. - Enforcement.

Enforcement of this division shall be accomplished in accordance with section 58-342 similar to enforcement of landscape regulations, division 8.

(Ord. No. 2767-09, § 1, 4-27-09)

Sec. 58-357. - Penalties.

Violation of any provision of this division shall be subject to the following penalties:

First violation: Written warning

Second violation: Class I Code Enforcement Citation

Third violation: Class II Code Enforcement Citation

Additional violation: Class IV Code Enforcement Citation

See section 1-23 for current fine amounts based on class of violation.

Each day violation exists shall constitutes a separate offense. Enforcement officials shall provide violators with no more than one written warning. In addition to the civil sanctions contained herein, the city may take any other appropriate legal action, including referring violations to the code enforcement board.

(Ord. No. 2767-09, § 1, 4-27-09)

Secs. 58-358—58-360. - Reserved.

## CHAPTER 2019-155

### Committee Substitute for House Bill No. 1159

An act relating to private property rights; creating s. 163.045, F.S.; prohibiting local governments from requiring notices, applications, approvals, permits, fees, or mitigation for the pruning, trimming, or removal of trees on residential property if a property owner obtains specified documentation; prohibiting local governments from requiring property owners to replant such trees; providing an exception for mangrove protection actions; amending s. 163.3209, F.S.; deleting a provision that authorizes electric utilities to perform certain right-of-way tree maintenance only if a property owner has received local government approval; creating s. 70.002, F.S.; creating a Property Owner Bill of Rights; requiring county property appraisers to provide specified information on their websites; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 163.045, Florida Statutes, is created to read:

163.045 Tree pruning, trimming, or removal on residential property.—

(1) A local government may not require a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree presents a danger to persons or property.

(2) A local government may not require a property owner to replant a tree that was pruned, trimmed, or removed in accordance with this section.

(3) This section does not apply to the exercise of specifically delegated authority for mangrove protection pursuant to ss. 403.9321-403.9333.

Section 2. Section 163.3209, Florida Statutes, is amended to read:

163.3209 Electric transmission and distribution line right-of-way maintenance.—After a right-of-way for any electric transmission or distribution line has been established and constructed, no local government shall require or apply any permits or other approvals or code provisions for or related to vegetation maintenance and tree pruning or trimming within the established right-of-way. The term “vegetation maintenance and tree pruning or trimming” means the mowing of vegetation within the right-of-way, removal of trees or brush within the right-of-way, and selective removal of tree branches that extend within the right-of-way. The provisions of this section do not include the removal of trees outside the right-of-way, which may be allowed in compliance with applicable local ordinances. Prior to conducting scheduled routine vegetation maintenance and tree pruning or trimming



activities within an established right-of-way, the utility shall provide the official designated by the local government with a minimum of 5 business days' advance notice. Such advance notice is not required for vegetation maintenance and tree pruning or trimming required to restore electric service or to avoid an imminent vegetation-caused outage or when performed at the request of the property owner adjacent to the right-of-way, ~~provided that the owner has approval of the local government, if needed.~~ Upon the request of the local government, the electric utility shall meet with the local government to discuss and submit the utility's vegetation maintenance plan, including the utility's trimming specifications and maintenance practices. Vegetation maintenance and tree pruning or trimming conducted by utilities shall conform to ANSI A300 (Part I)—2001 pruning standards and ANSI Z133.1-2000 Pruning, Repairing, Maintaining, and Removing Trees, and Cutting Brush—Safety Requirements. Vegetation maintenance and tree pruning or trimming conducted by utilities must be supervised by qualified electric utility personnel or licensed contractors trained to conduct vegetation maintenance and tree trimming or pruning consistent with this section or by Certified Arborists certified by the Certification Program of the International Society of Arboriculture. A local government shall not adopt an ordinance or land development regulation that requires the planting of a tree or other vegetation that will achieve a height greater than 14 feet in an established electric utility right-of-way or intrude from the side closer than the clearance distance specified in Table 2 of ANSI Z133.1-2000 for lines affected by the North American Electric Reliability Council Standard, FAC 003.1 requirement R1.2. This section does not supersede or nullify the terms of specific franchise agreements between an electric utility and a local government and shall not be construed to limit a local government's franchising authority. This section does not supersede local government ordinances or regulations governing planting, pruning, trimming, or removal of specimen trees or historical trees, as defined in a local government's ordinances or regulations, or trees within designated canopied protection areas. This section shall not apply if a local government develops, with input from the utility, and the local government adopts, a written plan specifically for vegetation maintenance, tree pruning, tree removal, and tree trimming by the utility within the local government's established rights-of-way and the plan is not inconsistent with the minimum requirements of the National Electrical Safety Code as adopted by the Public Service Commission; provided, however, such a plan shall not require the planting of a tree or other vegetation that will achieve a height greater than 14 feet in an established electric right-of-way. Vegetation maintenance costs shall be considered recoverable costs.

Section 3. Section 70.002, Florida Statutes, is created to read:

70.002 Property Owner Bill of Rights.—Each county property appraiser office shall provide on its website a Property Owner Bill of Rights. The purpose of the bill of rights is to identify certain existing rights afforded to property owners but is not a comprehensive guide. The Property Owner Bill

of Rights does not create a civil cause of action. The Property Owner Bill of Rights must state:

PROPERTY OWNER  
BILL OF RIGHTS

This Bill of Rights does not represent all of your rights under Florida law regarding your property and should not be viewed as a comprehensive guide to property rights. This document does not create a civil cause of action and neither expands nor limits any rights or remedies provided under any other law. This document does not replace the need to seek legal advice in matters relating to property law. Laws relating to your rights are found in the State Constitution, Florida Statutes, local ordinances, and court decisions. Your rights and protections include:

1. The right to acquire, possess, and protect your property.
2. The right to use and enjoy your property.
3. The right to exclude others from your property.
4. The right to dispose of your property.
5. The right to due process.
6. The right to just compensation for property taken for a public purpose.
7. The right to relief, or payment of compensation, when a new law, rule, regulation, or ordinance of the state or a political entity unfairly affects your property.

Section 4. This act shall take effect July 1, 2019.

Approved by the Governor June 26, 2019.

Filed in Office Secretary of State June 26, 2019.