

ORDINANCE NO. 2724-07

**AN ORDINANCE OF THE OF WINTER PARK, FLORIDA, AMENDING
CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE V,
"ENVIROMENTAL PROTECTION REGULATIONS" DIVISION 6, "TREE
PROTECTION" SO AS TO ADOPT NEW TREE PROTECTION AND TREE
REMOVAL REGULATIONS.**

BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:

SECTION 1. That Chapter 58 "Land Development Code," Article V "Environmental Protection Regulations" of the Code of Ordinances is hereby amended and modified by repealing Division 6, "Tree Protection," and adopting a new Division 6 "Tree Preservation and Protection" to read as follows:

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 Ordinance 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.

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 (4) inches shall be measured six (6) inches above the soil line. Trees greater than four (4) inches in caliper shall be measured twelve (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, four and one half (4 ½) 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 fifty (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 section 58-284.1). 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.

Historic tree is any protected tree(s) which is thirty-six (36) inches in dbh or greater and has such unique and intrinsic value to the general public because of its size, age, historic association, or ecological value as to justify this classification. Any tree in the City selected and duly designated a Florida State Champion, United States Champion or a World Champion by the American Forestry Association shall likewise be deemed a historic tree.

Major Root is any root that is one-fifth (1/5) 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 twenty-five (25) feet or greater and has a tree trunk dbh of nine (9) 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 section 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 two and one half times (2.5) a tree's drip-line.

Shade tree is a tree that typically reaches a height of over twenty-five feet (25) and has an average dbh of nine (9) inches or larger (see section 58-288).

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

Specimen tree shall mean a tree, other than exempt trees, with a trunk dbh of twenty-four inches (24) or greater unless deemed a historical tree. Special conditions apply to specimen trees.

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 twenty-five percent (25%) 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) twenty-five feet and is shown on the list of Understory trees.

Sec. 58-283 Establishing Duties and Authority

Sec. 58-283.1 Parks and Recreation Department

The Parks and Recreation Department is delegated the following authority:

- (a) 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.
- (b) 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.
- (c) To regulate and supervise trimming or removal of trees in the public right of ways and on City property. (See Sec 58-297, 298, and 299)

Sec. 58-283.2 Building and Code Enforcement Department

The Building and Code Enforcement Department is delegated the following authority:

- a) 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.
- (b) To process and evaluate tree removal permit applications for compliance with this Division.
- (c) 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 Commission or the City Commission.

(d) 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 Section 286.2(a)(4).

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

(f) 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.

(g) To grant a building setback encroachment up to a maximum distance of (10) 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 the Winter Park City Code shall also be considered when reviewing the proposed setback encroachment.

Sec. 58-283.3 Planning and Zoning Commission and City Commission

Any protected trees approved for removal or protection by the Planning and Zoning Commission 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 Commission or City Commission, then that decision and related information of that decision shall be transmitted in writing to the respective Commission.

Sec. 58-283.4 Tree Preservation Board

(a) The Tree Preservation Board is appointed by the City Commission and will consist of five (5) members: one (1) member each from the Planning and Zoning Commission, the Board of Adjustments, the Parks and Recreation Board; and two (2) 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.

(b) The term of each member of the Tree Preservation Board shall be three (3) years with a maximum of two (2) terms, or as long as they hold the position that qualifies them to serve on the Tree Preservation Board for those members chosen to serve from the respective boards.

(c) 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.

(d) 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 section 58-283.3.

(e) 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.

(f) The Tree Preservation Board may waive up to a maximum of five (5) parking spaces in multi-family residential and non-residential parking lots for the purposes of preserving existing protected trees.

(g) The Tree Preservation Board may periodically conduct educational programs and/or publish educational material as to the importance of trees to the City of Winter Park and the requirements of this Division.

Sec. 58-284 Tree Removal Permits

Sec. 58-284.1 Exempt Trees

No permit shall be required to remove the following types of trees:

- Citrus
- Ear (Enterolobium species);
- 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 (Sapium sebiferum);
- Brazilian Pepper (Schinus terebinthifolius);
- Any tree with a dbh less than nine (9) inches, as long as the tree was not planted as a replacement tree.

Sec. 58-284.2 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.

For all properties, any protected tree, excluding those exempted in Section 284.1, 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. In case of an emergency a tree may be removed as authorized by the City. (See section 58-283)

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 Sections 58-286.4.

Sec. 58-286 Tree Removal Permit Procedure

Sec. 58-286.1 When No Construction or Demolition is Involved

Applications for tree removal permits shall include:

- (a) A tree removal permit fee of an amount established by the City Commission; and
- (b) 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.
- (c) All protected trees petitioned for removal are to be marked on site in a harmless way and noted accordingly on the site plan.
- (d) Application forms may also request information regarding reasons for tree removal and other specifics as determined by the City.

Sec. 58-286.2 When Construction or Demolition Involving Other Permitting is Involved

(a) In addition to the requirements of Section 286.1, 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:

- (1) The property lines and footprint of existing structures; and
 - (2) The existing and proposed grades;
 - (3) 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.
 - (4) 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.
- (b) Incomplete or incorrect applications that require additional site visits shall require an

additional fee equal to the original permit fee for each subsequent visit.

Sec. 58-286.3 Removal Voids Appeals Process

(a) 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.

(b) Except in the event of an emergency, removal of a protected tree without a permit, except as allowed under section 58-283.1(b), shall make void any appeals as provided in this Division.

Sec. 58-286.4 Appeals

(a) 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.

(b) 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 10 days.

(c) 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.

(d) 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 sixty (60) day period and after notification of the intent to remove the subject tree(s) at the end of the sixty (60) day waiting period in writing. Replacement compensation shall be provided at the rate of one and a half (1 ½) times the replacement compensation required in Section 58-287. Removal of subject tree(s) prior to the end of the sixty (60) day period shall require the same compensation as an unpermitted tree removal. (see Section 58-299).

Sec. 58-286.5 Time for Processing Tree Removal Permit Applications

(a) Notice of incomplete or inaccurate applications shall be given to the applicant within seven (7) working days of the receipt of the application.

(b) Each application shall be approved, approved with conditions, denied, or returned to the applicant, requesting further action on the application within fourteen (14) working

days of the receipt of a complete application.

Sec. 58-286.6 Duration of Tree Removal Permit

Each tree removal permit shall remain in effect for (1) 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 Sec. 58-287(e), are to be met within (30) thirty days of the tree removal date unless an extension is documented on an approved permit. Extensions of no longer than (1) 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.

Sec. 58-286.7 Transfer of Tree Removal Permit

(a) 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.

(b) 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.

(c) 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.

(d) 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.

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

Sec. 58-286.8 Posting Of Approved Permit

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

Sec. 58-287 Tree Replacement and Financial Compensation Requirements

Conditions for approval of a tree removal permit shall include tree replacement and/or

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:

(a) 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 (3) 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.

- (1) Replacement of non-specimen protected trees shall be based on a one-to-one (1:1) ratio of the cumulative dbh of the protected trees removed.
- (2) Replacement of specimen trees shall be based on a two-to-one (2:1) ratio of the cumulative dbh of the protected tree(s) removed.
- (3) Replacement of historic trees shall be based on a three-to-one (3:1) ratio of the cumulative dbh of the protected tree(s) removed.
- (4) No single replacement shade tree shall have a caliper of less than three (3) inches. No single replacement understory tree, if approved, shall have a caliper of less than two (2) inches.
- (5) If understory trees are approved as replacement, the caliper inches required shall be double that required when using approved shade trees.
- (6) At least one tree used for replacement of each specimen tree or historic tree shall have a caliper of no less than four and one half (4 ½) inches.
- (7) 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.
- (8) Any tree removed from a non-R1 or R2 property that removes the property's compliance with the Division 8 Landscape Regulations needs to be replanted on the property.
- (9) Replacement trees may count toward meeting the planting requirements of Division 8, Landscape regulations.
- (10) 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 (1) one inch above the surrounding grade.

(11) Replacement tree(s) shall be maintained and warranted to survive for a period of one (1) 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.

(b) Financial Compensation

Caliper inches not planted as replacement trees are to be compensated by payment to the Tree Replacement Trust Fund at a rate per caliper inch set by the City Commission in the schedule of fees.

When the cumulative caliper inches of replacement trees is insufficient to meet the replacement requirements referenced in (a) below, financial compensation shall be paid to the Tree Replacement Trust Fund.

(1) Compensation is established in the schedule of fees and shall be dispersed per Section 58-289 Tree Replacement Trust Fund.

(2) In the event that a tree planting is approved on public property or City right of ways, maintenance fees as established by the City Commission may be assessed as part of the permit process.

(c) A stop work order shall be issued for any development until all applicable permit conditions are satisfied.

(d) No certificate of occupancy or certificate of completion shall be issued for any development until all applicable permit conditions have been satisfied.

(e) No tree removal permit shall be issued until the required financial compensation for removal is paid.

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

Acer rubrum

Betula nigra

COMMON NAME

Red Maple

River Birch

Liquidambar styraciflua
 Magnolia grandiflora
 Quercus hemisphaerica
 Quercus laurifolia
 Quercus nigra
 Quercus phellos
 Quercus shumardii
 Quercus virginiana
 Taxodium distichum
 Ulmas alata

Sweetgum
 Southern Magnolia
 Darlington oak
 Laurel oak
 Water oak
 Willow oak
 Shumard oak
 Live oak
 Bald cypress
 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 aculeata	Jerusalem thorn
Podocarpus macrophyllus	Yew podocarpus
Prunus campanulata	Taiwan cherry
Prunus umbellata	Flatwoods plum
Pyrus Kawakamii	Evergreen pear
Viburnum obovatum	Walter's viburnum
Vitex agnus-castus 'Shoal Creek'	Shoal Creek chaste tree

Sec. 58-289 Tree Replacement Trust Fund

(a) There is hereby created a Tree Replacement Trust Fund. 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) Purchases necessary for improvements (except vehicles), including contract services for the City's tree nursery or,

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

(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.

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.

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 (3") 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 fourteen (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).

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 (10) feet from a trunk unless existing or proposed structures are within that range.

(b) On single family residential (R1) 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 (4) high continuous fence with eight foot (8) 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 R1 (single family residential) and non R2 (multi family residential) construction and demolition sites shall require the following:

(1) A tree protection barrier consisting of continuous chain link fence six feet (6) high, with six foot (6) metal posts with eight foot (8) 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 thirty five (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 (5) height.

(d) Tree protection sign(s) shall be a minimum of two feet (2) wide by three feet (3) high consisting of a durable rigid, plastic or metal material with non fading lettering, legibly printed in characters a minimum of one and one half (1 ½) 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 (1) 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 Árboles

Prohibido dentro de esta area:

1. Aparcar o uso de vehículo, equipamiento, o maquinaria.
2. Almacenar o tirar de líquidos o materiales.
3. Construcción, excavación 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 (10) 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.

Sec. 58-293 Precautions Required for Significant Grade Changes for Protected Trees

(a) Grade changes involving the addition of more than three (3) 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 (3) feet from the trunk of the protected tree.

(b) Grade changes involving the removal of more than three (3) 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 (3) 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.

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.

Sec. 58-295 Requirements Pertaining to Utility Companies

(a) Any electric, natural gas, telephone, cable television, other public utility firm, or corporation must apply for a tree removal permit before the removal of any protected tree of any size.

(b) Any electric, natural gas, telephone, cable television, other public utility firm, or corporation must notify the City before cutting any portion of a tree of any size including major roots.

(c) The City shall supervise the cutting as necessary and may regulate or halt the cutting when it is deemed to be detrimental to any protected tree or when the cutting exceeds what is needed for continued utility service.

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 (8) over sidewalks and for a minimum height of thirteen and a half feet (13 ½) above any public roadway.

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.

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.

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

Sec. 58-299 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 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 twenty four 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.

Sec. 58-300 Enforcement and Authority to Enforce Division 6 "Tree Protection"

- (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 Section 58-286.4 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 thirty (30) days of the removal of the tree(s) shall require compensation, including administrative costs plus accrued interest at the rate of twelve (12) percent per annum filed as a lien upon the property and the provisions of sections 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

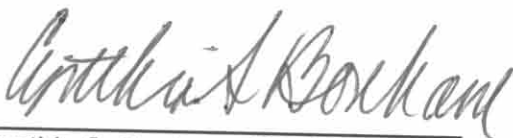
Enforcement Board penalties of \$250 and/or \$500 per day and/or irrevocable fee of \$5,000 and remedial action to restore the property.

Adopted at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida on the 8th day of October, 2007.



David C. Strong, Mayor

Attest:



Cynthia S. Bonham, City Clerk