

ARTICLE VI. TREE PROTECTION*

***Cross references:** Landscaping, § 108-381 et seq.

DIVISION 1. GENERALLY

Sec. 110-251. Purpose and intent.

The city commission finds that trees on privately and publicly owned property within the city are economic and aesthetic assets to the citizens of the city, because of their important and meaningful contribution to a healthy, beautiful, and safer community, attributable to their carbon dioxide absorption, oxygen production, dust filtration, wind and noise reduction, soil erosion prevention and surface drainage improvement. Therefore, the health and economic welfare of the citizens can be served through protection of the health and growth of the trees and through encouragement of additional plantings. The city commission further finds that this public purpose can best be achieved through a city agency having authority and responsibility to accomplish these goals. (Ord. No. 97-10, § 1(3-14.1), 7-3-1997)

Sec. 110-252. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ANSI means the American National Standards Institute which has published standards for tree, shrub and woody plant care and maintenance.

Champion tree means a tree determined by the tree commission to be of unique and intrinsic value to the general public due to its size, age, historic association or ecological value; or any tree designated as a Florida State Champion, United States Champion or World Champion by the American Forestry Association.

Coconut palm means an individual plant, of whatever size or dimensions, of the species *Cocos nucifera*.

Diameter at breast height and *dbh* mean the diameter of a tree's main trunk measured 4 1/2 feet above the ground surface.

Dicot means a dicotyledonous angiospermous plant, having two cotyledon or seed leaves and usually net venation, as in many long-lived trees and higher plants.

Florida #1 means a certain standard for structurally sound trees and shrubs, developed by the International Society of Arboriculture, Florida Chapter.

Harm means actions which reduce the overall health of a tree, but not including minor maintenance.

Hatracking means pollarding or flat-cutting a tree such that the leaders are severed, or such that the canopy spread is reduced by one-third or more during any 365-day period.

Major maintenance means actions reducing the length of a tree or the breadth of its crown spread by one-third or more during any 365-day period and conforming to the American National Safety Standards A-300 (1995).

Minor maintenance means pruning or diminishing a tree without reducing its length or crown spread by one-third or more during any 365-day period, and without reducing its overall health.

Monocot means a monocotyledonous angiospermous plant, having a single cotyledon or seed leaf, and usually having parallel veination as in grasses and palms.

Removal means a change in location of a tree, including transplanting; or a temporary change of location and return to the same location; or damage to a tree above or below ground, to the extent sufficient to kill the tree or cause a potential hazardous condition.

Shade tree means a self-supporting woody plant or species normally growing to a natural height of at least 15 feet and a mature spread of at least 15 feet. Clusters of more than one tree may be used as a shade tree, when it is demonstrated to the tree commission that the cluster will, at maturity, pass the 15-foot-spread requirement.

Terminal bud means the primary bud on the principal leader of a tree.

Tree means a woody or fibrous perennial plant, which normally grows to a minimum overall height of 15 feet and an average mature crown spread greater than 15 feet.

(Ord. No. 97-10, § 1(3-14.2), 7-3-1997; Ord. No. 99-08, § 1, 5-18-1999; Ord. No. 04-20, § 5, 11-3-2004)

Cross references: Definitions generally, § 1-2.

Sec. 110-253. Specially protected trees.

The following species of trees are afforded special protection by this article:

TABLE INSET:

Common Name	Scientific Name
Autograph tree	Calusia rosea
Avocado tree	Persea americana
Bay cedar	Suriana maritima
Blackbead	Pithecellobium guadalupense
Black calabash	Amphitecna latifolia
Black ironwood	Krugiodendron ferreum
Black mangrove	Avicennia germinans
Blolly	Guapira longitolia
Brittle thatch palm	Thrinax morrisii
Buttonwood	Conocarpus erectus
Cabbage palm	Sabal palmetto
Calabash tree	Crescentia cujete
Cats claw	Pithecellobium unguiscati
Cherry/buccaneer palm	Pseudophoenix sargentii

Cinnamon bark	Canella winterana
Cinnecord	Acacia choriophylla
Coconut palm	Cocos nucitera
Coral bean	Erythrina herbacea
Crabwood	Aferamnus lucidus
Cupania	Cupania glabra
Darling plum	Reynosia septentrionalis
Dahoon holly	Ilex cassine
False boxwood	Gyminda latifoli
Fiddlewood	Citharexylum fruticosum
Florida boxwood	Schaefferia frutescens
Florida privet	Forestiera segregata
Florida royal palm	Roystonea elata
Geiger tree	Cordia sebestena
Golden dew drop	Duranta repens
Guava	Psidium guajava
Gumbo limbo	Bursea simaruba
Guiana plum	Drypetes lateriflora
Inkwood	Exothea paniculata
Jamaica caper	Capporis cynophallophora
Jamaica dogwood	Piscidia piscipula
Joewood	Jacquinia keyensis
Lancewood	Nectandra coriacea
Lignum vitae	Guaiacum sanctum
Limber caper	Capparis flexuosa
Live oak	Quercus virginiana
Locustberry	Byrsonima lucida
Long spine acacia	Acacia macracantha
Mahogany	Swietenia mahagoni
Mango tree	Mangifera indica

Marlberry	<i>Ardisia escallonioides</i>
Mastic	<i>Mastichodendron foetidissimum</i>
Milkbark	<i>Drypetes diversifolia</i>
Myrsine	<i>Myrsine floridana</i>
Myrtle-of-the-river	<i>Calypttransthes zuzygium</i>
Paradise tree	<i>Schaefferia frutescens</i>
Paurotis palm	<i>Acoelorrhaphe wrightii</i>
Pigeon plum	<i>Coccoloba diversifolia</i>
Pine acacia	<i>Acacia pinetorum</i>
Pisonia	<i>Pisonia rotundata</i>
Poisonwood	<i>Metopium toxiferum</i>
Pond apple	<i>Annona glabra</i>
Princewood	<i>Exostema caribaeum</i>
Randia	<i>Randia aculeata</i>
Redberry stopper	<i>Eugenia confusa</i>
Red mangrove	<i>Rhizophora mangle</i>
Red stopper	<i>Eugenia rhombea</i>
Rhacoma	<i>Crossopetalum rhacoma</i>
Rough strongbark	<i>Bourreria radula</i>
Rough velvetseed	<i>Guettarada scabra</i>
Royal poinciana	<i>Delonix regia</i>
Saffon plum	<i>Bumelia celastrina</i>
Sapodilla	<i>Manilkara zapota</i>
Satinleaf	<i>Chrysophyllum oliviforme</i>
Sea-grape	<i>Coccoloba uvitera</i>
Seven-year apple	<i>Casasia clusiifolia</i>
Shortleaf fig	<i>Ficus citrifolia</i>
Silver palm	<i>Cocothrinax argentata</i>
Slash pine	<i>Pinus elliottii</i> var. <i>densa</i>
Smooth strongbark	<i>Bourreria succulenta</i>

Soapberry	Sapindus saponaria
Spanish lime	Melicoccus bijugatus
Spanish stopper	Eugenia foetidaia
Spicewood	Calyptanthes pallens
Soldierwood	Colubrina elliptica
Strangler fig	Ficus aurea
Strongbark	Bourreria ovata
Sweet acacia	Acacia farnesiana
Thatchpalm	Thrinax radiata
Torchwood	Amyris elemifera
Velvetseed	Guettarda elliptica
Wax myrtle	Myrica cenifera
White ironwood	Hypedlate trifoliata
White mangrove	Languncularia racemosa
White stopper	Eugenia axillaris
Wild coffee	Colubrina arborescens
Wild dilly	Manilkara bahamensis
Wild tamarind	Lysiloma bahamensis
Willow bustic	Dipholis salicifolia
Yellowheart/satinwood	Zanthoxylum flavum

(Ord. No. 97-10, § 1(3-14.3), 7-3-1997; Ord. No. 99-08, § 2, 5-18-1999; Ord. No. 04-20, § 6, 11-3-2004)

Sec. 110-254. Unprotected trees.

This article shall not be applicable to trees determined by the city manager to have died of natural causes. The following species of trees may be acted upon without permit from the tree commission (see also section 110-322, regarding Ficus species):

TABLE INSET:

Australian pine	Casuarina equisetifolia
Beefwood/Brazilian oak	Casuarina glauca
Black olive*	Bucidia beceras*
Brazilian pepper/Florida holly	Schinustere binthifolia

Cork tree*	
Ficus species**	
Mahoe*	
Melaleuca/cajuput/punk tree	Melaleuca quinquenervia
Norfolk Island pine	Araucaria excelfa /heterophylla
Pink tabebuia*	Tabebuia heterophylla*
Queensland umbrella	Schefflera actinophylla
Tropical almond*	Terminalia catappa*
Woman's tongue*	Albizia lebbbeck*

TABLE INSET:

*	If tree is more than two feet in diameter at breast height then permit is required.
**	See also section 110-322.

(Ord. No. 97-10, § 1(3-14.4), 7-3-1997; Ord. No. 99-08, § 3, 5-18-1999; Ord. No. 04-20, § 7, 11-3-2004)

Sec. 110-255. Removal of portions of coconut palm trees; permit required for sale.

(a) *Prohibited acts.* No person shall cause the removal of one or more fronds, nuts, or fruit of or any portion of the trunk or root system of or otherwise deface or damage any coconut palm located upon city-owned property, city streets, or city rights-of-way.

(b) *Sale or distribution.* Any person who intends to sell or distribute coconut palm tree fronds or coconuts in any form on city streets, sidewalks or other public areas shall apply to the licensing division for a permit. The permit holder shall display the permit at all times while doing business on city property. The permit holder shall also maintain on a daily basis, on a form provided by the city, a statement of the source of the palm fronds and/or coconuts, and a name and phone number of the private property owner who provided that source. There shall be a limit of five permits given in any one quarter, and the city manager shall develop a lottery system for applicants. No permit shall be given to an applicant who intends to use or has been convicted of removing fronds or coconuts from city-owned trees or trees located on city property. The city manager may revoke a permit upon evidence provided at a hearing of a permit holder's violation of this section. The permit fee shall be \$10.00 per quarter.

(c) *Exceptions.* This section shall not apply to work conducted for a city purpose by contractors or by city employees or to state agencies performing planting, maintenance, or removal functions with proper authorization.

(d) *Enforcement; penalty.* An alleged violation of this section shall be referred directly to the code enforcement special master. When the special master cannot secure compliance, the penalties provided by section 1-15 shall apply.

(Ord. No. 97-10, § 1(3-14.5(A)), 7-3-1997; Ord. No. 99-08, § 4, 5-18-1999; Ord. No. 04-20, § 8, 11-3-2004)

Sec. 110-256. Tree abuse.

(a) *Generally.* Tree abuse is prohibited, and abused trees shall not be counted toward fulfilling landscape requirements. The city may require the abused trees to be replaced.

(b) *Prohibited acts.* A tree shall be considered abused if a person takes an action so that one of the following occurs:

(1) Significant damage has been inflicted upon any part of a tree, including the root system, by machinery, storage of materials, soil compaction, excavation, vehicle accidents, chemical application or change to the natural grade.

(2) Damage inflicted to or cutting upon a tree which permits infection or pest infestation.

(3) Cutting upon any tree which permanently reduces the function of the tree or causes it to go into shock.

(4) Cutting upon a tree which destroys its natural shape.

(5) Hatracking as defined in section 110-252.

(6) Bark has been removed.

(7) Tears and splitting of limb ends or peeling and stripping of bark.

(8) Use of climbing spikes, or cutting into the tree for the purposes of climbing on any species of tree for any purpose other than total removal.

(9) Girdling a tree with the use of wires (e.g., use of weedeater, mower damage).

(c) *Additional prohibitions.*

(1) No private property owner or agent shall damage, cut, or carve any tree or tree root located on the owner's property; or allow any liquid, solid or biological substance that is harmful to trees to be placed within the dripline.

(2) No person shall cut or otherwise damage a root or roots of a tree located on public property without first obtaining a permit from the tree commission.

(3) If a root or roots of a tree on private property migrates into another property, the owner of the tree must consult with the Landscape Division before commencing any work that will result in severing the root.

(d) *Exceptions.* Exceptions to this section are as follows:

(1) Australian pines, Florida holly, and Melaleuca trees are not protected by this section.

(2) Utility line clearing in conformance with ANSI A-300 standards and National Electrical Safety Code clearances does not constitute tree abuse.

(3) No action in removing a lightning damaged tree or trees severely damaged by hurricane, windstorm, flood or like event shall be considered tree abuse.

(Ord. No. 97-10, § 1(3-14.5(B)), 7-3-1997; Ord. No. 04-20, § 9, 11-3-2004)

Sec. 110-257. Ficus trees.

No species of Ficus tree, except for the shortleaf fig (*Ficus citrifolia*) shall be planted on city property. Owners of private property are hereby discouraged from the planting of any tree Ficus species.

(Ord. No. 99-08, § 4, 5-18-1999)

Sec. 110-258. Emergencies.

In emergencies presenting imminent threat to person or property, any person may cause the removal of or major maintenance to a tree, provided that the city landscape

coordinator or landscape inspector and the tree commission chairperson give their approval, and this action is reasonably calculated to dissipate the threat. Within two days of such action, such person shall file an application to the tree commission for an after-the-fact tree permit. The applicant shall comply with all reasonable remedial actions prescribed by the tree commission, which remedy shall be in the form described in section 110-327(4) through (6), unless the tree can be saved in its present location. (Ord. No. 97-10, § 1(3-14.10), 7-3-1997)

Sec. 110-259. Duty of private property owner.

(a) It shall be the duty of any person or entity owning or occupying private real property bordering on any street, upon which private property there is a tree or trees, to maintain such trees in a manner that such trees will not obstruct the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs or traffic lights, or obstruct views of any street or alley intersection.

(b) It shall be the duty of any person or entity owning or occupying private real property bordering on any street, park or other public land, upon which private property there is a tree or trees that is diseased or infested, to treat or remove (with permit, as applicable) such tree or trees in a manner that they will not infect or damage nearby public vegetation or otherwise cause harm to the community or its citizens.

(c) Notwithstanding section 110-288, a code enforcement officer may take an alleged violation of subsection (a), hereof, directly through the code enforcement process described in chapter 2, article VI of the Code of Ordinances.

(Ord. No. 04-20, § 10, 11-3-2004)

Sec. 110-260. Champion trees.

(a) The tree commission shall designate and maintain a record of champion trees in Key West. The tree commission shall take a champion tree census during the five years after the effective date of this section, and from time to time thereafter update the census. After a tree is designated a champion tree, the landscape division shall notify the property owner within 60 days of the designation.

(b) The tree commission's designation of champion status shall require a supermajority vote. In the event of an appeal to the city commission on the designation or lack of designation of a tree as a champion, the commission's decision shall be by supermajority vote.

(Ord. No. 04-20, § 11, 11-3-2004; Ord. No. 08-04, § 21, 5-20-2008)

Secs. 110-261--110-285. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT*

***Cross references:** Administration, ch. 2.

Sec. 110-286. Personnel.

As provided by the annual city budget, the city manager shall provide appropriate staff to enable the tree commission to fulfill its duties and shall cause the minutes of all meetings to be recorded, transcribed in summary form and submitted to the tree commission for its approval. The city attorney shall serve as legal counsel to the tree commission in all matters.

(Ord. No. 97-10, § 1(3-14.11(A)), 7-3-1997)

Sec. 110-287. Funds.

The city manager shall establish within the city's operating budget a special account which shall include all funds donated to the work of the tree commission by any person, all funds donated to the city pursuant to section 110-327(7), all funds received from compliance settlement agreements as established in section 110-291, all funds received by the city from fines imposed in enforcement of this article by the code enforcement special master, and any other compensation paid to the city for damage to trees belonging to the city. Funds in the special account shall be spent only as requested by the tree commission and approved by the city commission and shall be used to finance education about city tree programs and to finance protection, replacement, or additional plantings of trees in the city.

(Ord. No. 97-10, § 1(3-14.11(B)), 7-3-1997)

Sec. 110-288. Hearings on violations.

When the city landscape coordinator or a code enforcement officer determines that a tree has been damaged or destroyed in violation of this article, the city landscape coordinator may schedule a hearing before the tree commission. The hearing may occur at a regular or a special meeting.

(Ord. No. 97-10, § 1(3-14.11(C)), 7-3-1997)

Sec. 110-289. Required notice of hearing.

Written notice of the hearing held pursuant to this division shall be provided to the alleged violator either by hand or by certified mail, return receipt requested. Notice shall be mailed or delivered by the city at least ten days before the hearing. The notice shall state the alleged violation. The tree commission may entertain a request for a continuance of the hearing to a later date. If the city landscape coordinator determines that the alleged violation presents an immediate and serious threat to the public health, safety, and welfare, the landscape coordinator may forward the case directly to the code enforcement special master as prescribed in article VI of chapter 2.

(Ord. No. 97-10, § 1(3-14.11(C)(1)), 7-3-1997)

Sec. 110-290. Hearing procedure.

A hearing before the tree commission on a violation of this article shall be informal and need not be conducted according to the technical rules of evidence. All relevant evidence shall be admitted. All testimony shall be under oath and recorded. The alleged violator shall be afforded the opportunity to be heard at the hearing. If the alleged violator is absent and notice of the hearing has been provided sufficiently, the tree commission may conduct the hearing and render a decision. At the conclusion of the hearing, the tree commission shall issue findings to support its decision.

(Ord. No. 97-10, § 1(3-14.11(C)(2)), 7-3-1997)

Sec. 110-291. Compliance settlement agreements.

The tree commission may enter into a compliance settlement agreement with any person who admits to or is found to be in violation of this article, in lieu of being prosecuted for an alleged violation hereunder. Conditions contained in a compliance settlement agreement may include any one or a combination of the following:

- (1) A restitution payment to the city based on the value of the damaged or destroyed tree (value to be determined by appraisal of the city landscape division; provided, however, that the property owner may offer an alternate value to the tree commission for its consideration);
- (2) A donation of a Florida #1 tree or trees to the city (based on replacement value);
- (3) A replanting of a tree or trees on the subject property;
- (4) Time limits of performance by the person; and
- (5) A performance bond in an amount to secure compliance with a settlement agreement hereunder, and to be dissolved upon compliance with all terms of that settlement agreement.

If a property is sold prior to the completion of compliance with a settlement agreement, then the new owner shall be subject to the terms and conditions of the compliance settlement agreement. It shall be the duty of the selling property owner within ten days of the effective date of the sales contract to provide the buyer with a copy of the compliance settlement agreement. The landscape division shall issue a letter to the property owner when compliance is achieved.

(Ord. No. 97-10, § 1(3-14.11(C)(3)), 7-3-1997; Ord. No. 04-20, § 12, 11-3-2004)

Sec. 110-292. Failure to achieve a compliance agreement.

If the alleged violator declines to enter into a compliance settlement agreement as provided in section 110-291, the tree commission shall forward the case to the code enforcement special master for further hearing and penalty.

(Ord. No. 97-10, § 1(3-14.11(C)(4)), 7-3-1997; Ord. No. 04-20, § 13, 11-3-2004)

Sec. 110-293. Fine recommended by tree commission.

The tree commission shall issue a recommendation of a fine to the code enforcement special master based on its findings at the hearing on a violation of this article. If the tree commission finds that the damage to the tree is irreparable or irreversible, the tree commission may recommend that the special master impose a one-time fine of up to \$5,000.00 per violation.

(Ord. No. 97-10, § 1(3-14.11(C)(4)(a)), 7-3-1997; Ord. No. 04-20, § 14, 11-3-2004)

Sec. 110-294. Notice of tree commission's final decision.

When a person found to be in violation of this article by the tree commission opts not to enter into a compliance settlement agreement, the tree commission shall provide written notice of its final decision and its intention to forward the case to the code enforcement special master. Notice shall be provided either by hand or by mail, return receipt requested, within ten days of the hearing.

(Ord. No. 97-10, § 1(3-14.11(C)(4)(b)), 7-3-1997)

Sec. 110-295. Authority of special master.

The code enforcement special master shall have the authority to enforce compliance with the terms of this article.

(Ord. No. 97-10, § 1(3-14.11(C)(4)(c)), 7-3-1997)

Secs. 110-296--110-320. Reserved.

DIVISION 3. PERMIT

Sec. 110-321. Required.

(a) Unless a tree removal permit approved by the tree commission and issued by the landscaping division has been obtained, no person, whether on publicly or privately owned land, shall cause tree abuse or other harm, or maintenance to, hatracking, transplanting, topping or removal of the following:

(1) Any tree listed as "specially protected" in section 110-253;

(2) Any monocot tree which is eight feet or more in height measured to the terminal bud;

(3) Any dicot tree which is 3 1/2 inches or more in diameter at breast height; or

(4) Any plants located on public property.

(b) If there is an alleged violation of this section, the tree commission may conduct a hearing to determine a violation in accordance with procedures set forth in sections 110-288 through 110-295.

(Ord. No. 97-10, § 1(3-14.6(A)), 7-3-1997; Ord. No. 04-20, § 15, 11-3-2004)

Sec. 110-322. Exceptions.

(a) No permit shall be required for the removal of trees listed in section 110-254. In addition, all species of *Ficus* that have a diameter at breast height of two feet or smaller may be removed without permit; provided, however, that permits for removal of a strangler fig (*Ficus aurea*) or a shortleaf fig (*Ficus citrifolia*) shall in all instances be required. A tree may be transplanted from one location to another location, either on the same site or to a different site, only with a permit; however, no permit is required when a tree is moved or transplanted from a holding area. For the purposes of this subsection, a holding area is deemed to be the area on the same site where a tree is held for not longer than 30 days and held with the property owner's intent to move or transplant it. The holding area shall be irrigated, and trees shall be staked properly for structural support.

(b) No permit shall be required for the removal of a tree or trees located entirely within an interior courtyard, when that courtyard is enclosed on its four sides by a residence or commercial building; provided, however, that a permit is required if the tree has been designated as a champion.

(Ord. No. 97-10, § 1(3-14.6(B)), 7-3-1997; Ord. No. 99-08, § 5, 5-18-1999; Ord. No. 04-20, § 16, 11-3-2004)

Sec. 110-323. Application.

All applications for a tree removal permit shall be made to the city's landscape division. The application shall include an inventory of all existing trees in the area of proposed construction impact, including ingress to and egress from this area. The inventory shall

state size, diameter and species of each tree. In order for the application to be acted upon, it must be signed by the property owner, or a letter from the property owner must be attached to the application designating an authorized agent. The applicant shall be responsible for clearly marking the subject trees on the site.

(Ord. No. 97-10, § 1(3-14.6(C)), 7-3-1997; Ord. No. 04-20, § 17, 11-3-2004)

Sec. 110-324. Determination by city landscape division.

After receiving an application for a tree removal permit, a representative of the city's landscape division within 45 days of receipt of the application shall conduct a site visit and prepare an application evaluation report ("AER"). The AER shall contain an evaluation of the tree, its species, size and condition. The AER shall determine a replacement value on an inch-by-inch basis; or an equivalent value on a monetary basis. An equivalency determination shall include, but not be limited to, an evaluation of species, age, condition, historical significance, dimensions and the tree's setting. The landscape division shall then forward the AER to the tree commission (copy to the applicant) for consideration during permit review. If the site visit is not concluded and the AER not issued within the prescribed 45 days, then the landscape division shall issue the permit forthwith.

(Ord. No. 97-10, § 1(3-14.6(D)), 7-3-1997; Ord. No. 99-08, § 5, 5-18-1999; Ord. No. 04-20, § 18, 11-3-2004)

Sec. 110-325. Review and action by tree commission.

Review and action by the tree commission on the application for a tree removal permit shall be as provided in sections 110-326 through 110-330.

(Ord. No. 97-10, § 1(3-14.6(E)), 7-3-1997)

Sec. 110-326. Public meetings.

The tree commission, within 30 days of receiving the application evaluation report (AER) set forth in section 110-324, shall hold a public meeting to review and act on all applications for tree removal, including development plans involving tree removal and landscaping. The planning board shall not review a development plan until the plan has been reviewed by the tree commission, unless the city landscape division renders a finding that the subject development plan is compliant with all criteria of article VI of chapter 108 and this article. Notice of the date of the tree commission meeting shall be provided to the applicant. The applicant shall be given reasonable opportunity to be heard at the public meeting prior to the tree commission's action.

(Ord. No. 97-10, § 1(3-14.6(E)(1)), 7-3-1997; Ord. No. 04-20, § 19, 11-3-2004)

Sec. 110-327. Approval criteria.

The tree commission shall consider its finding of one or more of the following facts as grounds supporting approval of a tree removal permit application:

- (1) The tree is a hazard to traffic, public utilities, buildings or structures;
- (2) The tree is injured, diseased or insect infested such that it is a hazard to people, structures or other trees;
- (3) The tree prevents access to a lot or parcel;

(4) The tree will be properly transplanted to another location in the city by the property owner with the consent of the owner of the new location. Transplanting shall take place following ANSI A-300 standards. The new owner shall maintain the tree. If it dies, then the new owner shall replace it with one or more trees of equal value, as approved by the tree commission;

(5) The tree will be replaced with an equivalent tree planted in a location suitable for healthy growth on the same lot or parcel. Sufficient space shall be provided on site to allow replacement tree(s) to establish a mature canopy spread, based on typical growth characteristics;

(6) The tree will be replaced with an equivalent tree that is:

(a) Donated to the public or to a non-profit organization recommended by the tree commission.

(b) Planted by the applicant on public property with the advice and consent of the tree commission and the engineering department; and

(c) Guaranteed by the applicant for a minimum of one year after planting; or

(7) Funds equivalent to the value of the tree will be donated by the applicant to the city for use as provided by section 110-287.

(Ord. No. 97-10, § 1(3-14.6(E)(2)), 7-3-1997; Ord. No. 04-20, § 20, 11-3-2004)

Sec. 110-328. Findings of disapproval.

The tree commission shall consider its finding of one or more of the following facts as grounds supporting disapproval of a tree removal permit application:

(1) The species, size, champion tree status, historical importance and/or condition of the tree make it a unique or rare specimen; or

(2) The size or location of the tree makes it substantial in and easily accessible to public view.

(Ord. No. 97-10, § 1(3-14.6(E)(3)), 7-3-1997; Ord. No. 04-20, § 21, 11-3-2004)

Sec. 110-329. Reserved.

Editor's note: Section 22 of Ord. No 04-20, adopted Nov. 3, 2004, repealed § 110-329, which pertained to additional requirements and derived from Ord. No 97-10, adopted July 3, 1997.

(Ord. No. 97-10, § 1(3-14.6(E)(4)), 7-3-1997)

Sec. 110-330. Application of criteria.

The tree commission shall determine whether to approve each tree removal permit application by weighing its findings made pursuant to sections 110-327 and 110-328. Except for trees meeting the criteria of either section 110-327(1) or (2), no permit for tree removal shall be issued unless the tree commission makes an affirmative finding under section 110-327(4), (5), (6) or (7) and weighs such finding as provided in this division.

(Ord. No. 97-10, § 1(3-14.6(E)(5)), 7-3-1997; Ord. No. 04-20, § 23, 11-3-2004)

Sec. 110-331. Issuance.

Each approval of a tree removal permit shall be signed by the chairperson of the tree commission. Notice of its approval shall be given by the tree commission to the landscape division which shall issue a permit.

(Ord. No. 97-10, § 1(3-14.6(F)), 7-3-1997; Ord. No. 04-20, § 24, 11-3-2004)

Sec. 110-332. Disapproval.

If the application for a tree removal permit is disapproved, the applicant may modify and resubmit the application only after six months from the date of denial and in accordance with tree commission regulations.

(Ord. No. 97-10, § 1(3-14.6(G)), 7-3-1997; Ord. No. 04-20, § 25, 11-3-2004)

Sec. 110-333. Posting.

The applicant for the tree removal permit shall keep the permit posted upon the tree during the work.

(Ord. No. 97-10, § 1(3-14.6(H)), 7-3-1997)

Sec. 110-334. Expiration.

All tree removal permits shall expire six months after the date of issuance. If work to be done pursuant to the permit is not complete, then the property owner must apply to the tree commission for renewal of the permit. The landscape division shall grant one six-month renewal as of right and may grant a summary administrative approval of future renewal applications.

(Ord. No. 97-10, § 1(3-14.6(I)), 7-3-1997; Ord. No. 04-20, § 26, 11-3-2004)

Sec. 110-335. Exemptions.

The tree commission shall have the option of granting an open-ended tree removal permit to Keys Energy Services. Such permit shall be subject to periodic reviews to ensure compliance with ANSI A-300 standards.

(Ord. No. 97-10, § 1(3-14.6(J)), 7-3-1997; Ord. No. 04-20, § 27, 11-3-2004)

Sec. 110-336. Pruning or heavy maintenance.

Pruning of trees shall be performed following pruning standards set by ANSI A-300 standards, as provided in division 5 of this article.

(Ord. No. 97-10, § 1(3-14.6(K)), 7-3-1997; Ord. No. 04-20, § 28, 11-3-2004)

Sec. 110-337. Appeals.

Appeals of the tree commission's permit decisions may be taken to the city commission as provided in section 90-429.

(Ord. No. 97-10, § 1(3-14.9), 7-3-1997; Ord. No. 08-04, § 22, 5-20-2008)

Secs. 110-338--110-365. Reserved.

DIVISION 4. PROTECTION STANDARDS

Sec. 110-366. Protective barricades; performance bond.

All trees on a site shall be protectively barricaded before and during construction activities. The minimum barricading shall be subject to review by the city landscape division. Upon a vote of the tree commission, a performance bond in addition to a protective barricade may be required from the agent or owner for any tree protection, removal or transplanting to guarantee protection of a tree or to ensure restoration of an

equivalency. The amount of such bond shall be based on the equivalent value of the tree specifically covered. Any bond required for a protected tree shall be four times the equivalent value for that tree, but in no event shall exceed \$5,000.00.

(Ord. No. 97-10, § 1(3-14.8(A)(1)), 7-3-1997; Ord. No. 04-20, § 29, 11-3-2004)

Sec. 110-367. Fences and walls.

The root systems of existing trees shall be taken into consideration when installing fences and walls. Post holes and trenches located close to trees shall be dug by hand and adjusted as necessary to avoid damage to major roots. Continuous footers for masonry walls shall be ended at the point larger roots are encountered and the roots bridged.

(Ord. No. 97-10, § 1(3-14.8(A)(2)), 7-3-1997)

Sec. 110-368. Failure to comply.

Any owner, tenant, contractor or agent thereof who fails to provide tree protection as stated in this division shall be guilty of tree abuse.

(Ord. No. 97-10, § 1(3-14.8(A)(3)), 7-3-1997)

Sec. 110-369. Tree cutting standards.

All trees shall be cut pursuant to division 5 of this article pertaining to pruning standards.

(Ord. No. 97-10, § 1(3-14.8(B)), 7-3-1997)

Secs. 110-370--110-395. Reserved.

DIVISION 5. PRUNING STANDARDS

Sec. 110-396. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arborist means a professional who possesses the technical competence through experience and related training to provide for or supervise the management of trees and other woody plants in the residential, commercial and public landscape.

Boundary reaction zone means a separating boundary between wood present at the time of wounding and wood that continues to form after wounding.

Branch and *limb* mean a secondary shoot or stem arising from one of the main axes (i.e., trunk or leader) of a tree.

Branch bark ridge means the raised area of bark in the branch crotch that marks where the branch wood and trunk wood meet.

Branch collar means trunk tissue that forms around the base of a branch between the main stem and the branch. As a branch decreases in vigor or begins to die, the branch collar becomes more pronounced.

Callus tissue means undifferentiated tissue formed by the cambium layer around a wound.

Cambium means the dividing layer of plant cells that forms sapwood (xylem) to the inside and bark (phloem) to the outside.

Canopy means the upper portion of the tree consisting of limbs, branches, and leaves.

Clean cuts means cuts made using a sharp tool, with no nicks or tears on the branch collar or the trunk.

Climbing spurs means sharp, pointed devices affixed to the climber's legs used to assist in climbing trees (a.k.a. gaffs, hooks, spurs, spikers and climbers).

Closure means the process of woundwood covering a cut or other tree injury.

Crotch means the angle formed at the attachment between a branch and another branch, leader or trunk of a woody plant.

Crown, technically, means the juncture of the trunk above the roots, but in common usage it refers to the foliage comprising the uppermost branch structure.

Crown cleaning means the removal of dead, dying, diseased, crowded, weakly attached, or low-vigor branches and watersprouts from a tree's crown.

Crown raising means the removal of the lower branches of a tree in order to provide clearance.

Cut means the exposed wood area resulting from the removal of a branch or portion thereof.

Decay means the degradation of plant tissue, including wood, by pathogens such as fungus organisms. Wood decay can reduce the structural integrity of a tree or its individual limbs.

Dormant means a state of inactivity, or no growth. Deciduous trees are considered to be dormant from the time the leaves fall until new foliage begins to appear.

Drop crotch pruning means the specific cutting back of a branch or leader to a lateral branch at least one-third to one-half the diameter of the cut being made.

Espalier means pruning that is a combination of cutting and training branches which are oriented in one plane, formally or informally arranged and usually supported on a wall, fence or trellis. The patterns can be simple or complex but the cutting and training is precise. Ties should be replaced every few years to prevent girdling the branches at the attachment site.

Girdling roots means roots located above or below the ground level whose circular growth around the base of the trunk or over individual roots applies pressure to the bark area, ultimately restricting sap flow and trunk/root growth, frequently resulting in reduced vitality and/or stability of the plant.

Heading means cutting a currently growing or one-year-old shoot back to a bud, or cutting an older branch or stem back to a stub or lateral branch not sufficiently large enough to assume the terminal role. Heading should rarely be used on mature trees.

Heartwood means the inactive xylem (wood) toward the center of a stem or root that provides structural support.

Lateral means a branch or twig growing from a parent branch or stem.

Leader means a dominant upright stem, usually the main trunk. There can be several leaders in one tree.

Line clearance means pruning for the safe operation and maintenance of uninterrupted electric service.

Parent branch or stem means the tree trunk; or a large limb from which lateral branches grow.

Phloem means inner bark tissue through which primarily carbohydrates and other organic compounds move from regions of high concentration to low.

Photosynthesis means the process by which green plants manufacture food (carbohydrates) in cells containing chlorophyll, utilizing sunlight for energy.

Pollarding means a training system used on some large-growing deciduous trees that are severely headed annually or every few years to hold them to modest size or to give them and the landscape a formal appearance. Pollarding is not synonymous with topping, lopping, or stubbing. Pollarding is severely heading some and removing the other vigorous watersprouts back to a definite head or knob of latent buds at the branch ends.

Precut and *precutting* mean the removal of the branch far enough beyond the finished cut so as to prevent splitting into the parent stem. The branch is first undercut, then cut from the top before the final cut.

Pruning means the removal of plant parts, dead or alive, in a careful and systematic manner so as to not damage other parts of the plant.

Qualified line clearance tree trimmer means a tree worker who, through related training and on-the-job experience, is familiar with the techniques in line clearance and has demonstrated his ability in the performance of the special techniques involved. This qualified person may or may not be currently employed by a line clearance contractor.

Qualified line clearance tree trimmer trainee means any worker undergoing line clearance tree trimming training who, in the course of such training, is familiar with the techniques in line clearance and has demonstrated his ability in the performance of the special techniques involved. Such trainees shall be under the direct supervision of qualified personnel.

Qualified person or personnel means workers who, through related training and/or on-the-job experience, are familiar with the techniques and hazards of arboriculture work including training, trimming, maintaining, repairing or removing trees, and the equipment used in such operations.

Qualified tree worker, person or personnel means a person who, through related training and on-the-job experience, is familiar with the hazards of pruning, trimming, maintaining, repairing or removing trees and with the equipment used in such operations and has demonstrated ability in the performance of the special techniques involved.

Qualified tree worker trainee means any worker undergoing on-the-job training who, in the course of such training, is familiar with the hazards of pruning, trimming, maintaining, repairing or removing trees and with the equipment used in such operations and has demonstrated ability in the performance of the special techniques involved. Such trainees shall be under the direct supervision of qualified personnel.

Sap flow means the course assumed by sap in its movement through a tree.

Sapwood means the active xylem (wood) that stores water and carbohydrates and transports water and nutrients; a wood layer of variable thickness found immediately inside the cambium, comprised of water-conducting vessels or tracheids and living plant cells.

Scars and *injuries* mean natural or manmade lesions of the bark in which wood is exposed.

Shall denotes a mandatory requirement.

Should denotes an advisory requirement.

Stub means an undesirable short length or a branch remaining after a break or incorrect pruning cut is made.

Sucker means a vigorous shoot arising at or below the graft union. See *Watersprout*.

Sunburn means bark injury cause by extreme heat from the sun.

Sunscald means bark splitting or injury caused by temperature extremes or sudden temperature fluctuation.

Target means a person, structure or object which could sustain damage from the failure of a tree or portion of a tree.

Terminal role means a branch that assumes the dominant vertical position on the top of a tree.

Thinning means the removal of branches where they arise in order to let in light, reduce wind resistance, remove unwanted branches, or to retain a tree's natural shape.

Topiary means trees sheared or pruned carefully in a formal shape.

Topping describes a generally undesirable pruning practice, but more often refers to the severe cutting back of branches with very little regard for the shape of the tree.

Tracing means careful removal of the loose or damaged bark along the edges of a wound to encourage closure.

Trimming means the same as the definition of Pruning.

Underclearance means the removal of lower tree limbs to allow clearance beneath the tree crown.

Watersprout means a vigorous shoot arising from the aboveground portion of the tree or above the graft union.

Wound means the opening that is created any time the tree's protective bark covering is penetrated, cut, or removed, injuring or destroying living tissue. Pruning a live branch creates a wound, even when the cut is properly made.

Xylem means wood tissue; active xylem is called sapwood, and inactive xylem is called heartwood.

(Ord. No. 97-10, § 1(3-14A.1), 7-3-1997)

Cross references: Definitions generally, § 1-2.

Sec. 110-397. Class I pruning.

Fine pruning of trees is recommended for premium quality work with an emphasis on aesthetic considerations in addition to structural integrity. Fine pruning shall consist of the removal of dead, dying, diseased, decayed, interfering, objectionable, obstructing, and weak branches, as well as selective thinning to lessen wind resistance. The removal of such described branches is to include those on the main trunks, as well as those inside the leaf area. An occasional undesirable branch, up to one-half inch (1.25 cm) in diameter, as described in this section, may remain within the main leaf area to its full length when it is not practical to remove it. All of the following specifications apply to class I fine pruning:

(1) All cuts shall be made as close as possible to the trunk or parent limb, without cutting into the branch collar or leaving a protruding stub (see diagram A). Bark at the edge of all pruning cuts should remain firmly attached.

GRAPHIC LINK:[Branches 1](#)

(2) All branches too large to support with one hand shall be precut to avoid splitting or tearing of the bark (see diagram B). Where necessary, ropes or other equipment should be used to lower large branches or stubs to the ground.

GRAPHIC LINK:[Branches 2](#)

(3) Treatment of cuts and wounds with wound dressing or paints has not been shown to be effective in preventing or reducing decay and is not generally recommended for that

reason. Wound dressing over infected wood may stimulate the decay process. If wounds are painted for cosmetic or other reasons, materials nontoxic to the cambium layer of meristematic tissue must be used. Care must be taken to apply a thin coating of the material only to the exposed wood.

(4) Old injuries are to be inspected. Those not closing properly and where the callus growth is not already completely established should be bark traced if the bark appears loose or damaged. Such tracing shall not penetrate the sapwood, and margins shall be kept rounded.

(5) Equipment that will damage the bark and cambium layer should not be used on or in the tree. For example, the use of climbing spurs, hooks, or irons is not an acceptable work practice for pruning operations on live trees. Sharp tools shall be used so that clean cuts will be made at all times.

(6) All cut limbs shall be removed from the crown upon completion of the pruning.

(7) Trees susceptible to serious infectious diseases should not be pruned at the time of year during which the pathogens causing the diseases or the insect vectors are most active. Similarly, if pruning wounds may attract harmful insects, pruning should be timed so as to avoid insect infestation.

(8) Remove the weaker or less desirable of crossed or rubbing branches. Such removal, if possible, should not leave large open spaces in the general outline of the tree.

(9) Where practical, all visible girdling roots shall be treated as follows:

a. Either cut the root at one end or sever the root in the center with a chisel in order to allow the growing tree to push the root away; and

b. Remove the section of the root.

(10) The presence of any disease condition, fungus fruit bodies, decayed trunk or branches, split crotches or branches, cracks, or other structural weakness shall be reported in writing to a supervisor and/or the owner and corrective measures recommended.

(Ord. No. 97-10, § 1(3-14A.2), 7-3-1997)

Sec. 110-398. Class II pruning.

Standard pruning of trees is recommended for where aesthetic considerations are secondary to structural integrity and tree health concerns. Standard pruning shall consist of the removal of dead, dying, diseased, decayed, interfering, objectionable, obstructing, and weak branches, as well as selective thinning to lessen wind resistance. The removal of such described branches is to include those on the main trunks, as well as those inside the leaf area. An occasional branch, up to one inch (2.5 cm) in diameter, may remain within the main leaf area where it is not practical to remove it. All of the following specifications apply to class II standard pruning:

(1) All cuts shall be made as close as possible to the trunk or parent limb, without cutting into the branch collar or leaving a protruding stub (see diagram A). Bark at the edge of all pruning cuts should remain firmly attached.

(2) All branches too large to support with one hand shall be precut to avoid splitting or tearing of the bark (see diagram B). Where necessary, ropes or other equipment should be used to lower large branches or stubs to the ground.

(3) Treatment of cuts and wounds with wound dressing or paints has not been shown to be effective in preventing or reducing decay and is not generally recommended for that reason. Wound dressing over infected wood may stimulate the decay process. If wounds

are painted for cosmetic or other reasons, materials nontoxic to the cambium layer of meristematic tissue must be used. Care must be taken to apply a thin coating of the material only to the exposed wood.

(4) Old injuries are to be inspected. Those not closing properly and where the callus growth is not already completely established should be bark traced if the bark appears loose or damaged. Such tracing shall not penetrate the sapwood, and margins shall be kept rounded.

(5) Equipment that will damage the bark and cambium layer should not be used on or in the tree. For example, the use of climbing spurs, hooks, or irons is not an acceptable work practice for pruning operations on live trees. Sharp tools shall be used so that clean cuts will be made at all times.

(6) All cut limbs shall be removed from the crown upon completion of the pruning.

(7) Trees susceptible to serious infectious diseases should not be pruned at the time of year during which the pathogens causing the diseases or the insect vectors are most active. Similarly, if pruning wounds may attract harmful insects, pruning should be timed so as to avoid insect infestation.

(8) All visible girdling roots are to be reported to a supervisor and/or the owner.

(9) The presence of any disease condition, fungus fruit bodies, decayed trunk or branches, split crotches or branches, cracks, or other structural weakness shall be reported in writing to a supervisor and/or the owner and corrective measures recommended.

(Ord. No. 97-10, § 1(3-14A.3), 7-3-1997)

Sec. 110-399. Class III pruning.

Hazard pruning of trees is recommended where safety considerations are paramount.

Hazard pruning shall consist of the removal of dead, diseased, decayed, and obviously weak branches, two inches (five cm) in diameter or greater. All of the following specifications apply to class III hazard pruning:

(1) All cuts shall be made as close as possible to the trunk or parent limb, without cutting into the branch collar or leaving a protruding stub (see diagram A). Bark at the edge of all pruning cuts should remain firmly attached.

(2) All branches too large to support with one hand shall be pre-cut to avoid splitting or tearing of the bark (see diagram B). Where necessary, ropes or other equipment should be used to lower large branches or stubs to the ground.

(3) Treatment of cuts and wounds with wound dressing or paints has not been shown to be effective in preventing or reducing decay and is not generally recommended for that reason. Wound dressing over infected wood may stimulate the decay process. If wounds are painted for cosmetic or other reasons, materials nontoxic to the cambium layer of meristematic tissue must be used. Care must be taken to apply a thin coating of the material only to the exposed wood.

(4) Old injuries are to be inspected. Those not closing properly and where the callus growth is not already completely established should be bark traced if the bark appears loose or damaged. Such tracing shall not penetrate the sapwood, and margins shall be kept rounded.

(5) Equipment that will damage the bark and cambium layer should not be used on or in the tree. For example, the use of climbing spurs, hooks, or irons is not an acceptable work

practice for pruning operations on live trees. Sharp tools shall be used so that clean cuts will be made at all times.

(6) All cut limbs shall be removed from the crown upon completion of the pruning.

(7) Trees susceptible to serious infectious diseases should not be pruned at the time of year during which the pathogens causing the diseases or the insect vectors are most active. Similarly, if pruning wounds may attract harmful insects, pruning should be timed so as to avoid insect infestation.

(8) All visible girdling roots are to be reported to a supervisor and/or the owner.

(9) The presence of any disease condition, fungus fruit bodies, decayed trunk or branches, split crotches or branches, cracks, or other structural weakness shall be reported in writing to a supervisor and/or the owner and corrective measures recommended.

(Ord. No. 97-10, § 1(3-14A.4), 7-3-1997)

Sec. 110-400. Class IV pruning generally.

Crown reduction pruning of trees shall consist of the reduction of tops, sides, or individual limbs. The terms "cutting back" and "drop crotch pruning" are sometimes used interchangeably with the term "crown reduction pruning." By contrast, the term "topping" is used to refer to a generally unacceptable arboricultural practice. The correct technique for crown reduction involves removal of a parent limb or dominant leader at the point of attachment of a lateral branch (see diagram C). This practice is to be undertaken only for the following reasons:

(1) In situations where branches interfere with utility lines;

(2) When there has been significant crown dieback;

(3) When it is necessary to achieve specific topiary training or dwarfing; and

(4) When, due to storm damage or prior incorrect pruning, it is appropriate to prune for safety and aesthetic reasons.

GRAPHIC LINK:[Pruning](#)

(Ord. No. 97-10, § 1(3-14A.5), 7-3-1997)

Sec. 110-401. Class IV crown reducing pruning.

The following the specifications are for class IV crown reducing pruning:

(1) All branches too large to support with one hand shall be precut to avoid splitting or tearing of the bark (see diagram B). Where necessary, ropes or other equipment should be used to lower large branches or stubs to the ground.

(2) Treatment of cuts and wounds with wound dressing or paints has not been shown to be effective in preventing or reducing decay and is not generally recommended for that reason. Wound dressing over infected wood may stimulate the decay process. If wounds are painted for cosmetic or other reasons, materials nontoxic to the cambium layer of meristematic tissue must be used. Care must be taken to apply a thin coating of the material only to the exposed wood.

(3) Old injuries are to be inspected. Those not closing properly and where the callus growth is not already completely established should be bark traced if the bark appears loose or damaged. Such tracing shall not penetrate the sapwood, and margins shall be kept rounded.

(4) Equipment that will damage the bark and cambium layer should not be used on or in the tree. For example, the use of climbing spurs, hooks, or irons is not an acceptable work

practice for pruning operations on live trees. Sharp tools shall be used so that clean cuts will be made at all times.

(5) All cut limbs shall be removed from the crown upon completion of the pruning.

(6) Trees susceptible to serious infectious diseases should not be pruned at the time of year during which the pathogens causing the diseases or the insect vectors are most active. Similarly, if pruning wounds may attract harmful insects, pruning should be timed so as to avoid insect infestation.

(7) When removing a parent leader or limb to a lateral branch, the final cut should be made as close to parallel as possible with the branch bark ridge and the lateral limb. The cut should be made as close to the bark ridge as possible without cutting into it. Care should be taken to avoid damaging the lateral limb when the final cut is made.

(8) Remove the weaker or less desirable of crossed or rubbing branches. Such removal should not leave large open spaces in the general outline of the tree.

(9) Generally, in crown reduction pruning, not more than one-third of the total area should be reduced at a single operation. Every effort should be made to cut back to a lateral at least one-third to one-half the diameter of the parent limb or leader that is being removed. Cuts not made to a suitable lateral, sometimes called topping cuts, shall not be permitted.

(10) Before a branch is cut back, the ratio of live wood in the branch to leaf surface area in the branch should be considered carefully. The leaves must supply sufficient carbohydrates (food) to maintain the wood in the branch as well as send excess carbohydrates to the trunk and roots for storage and later use. Generally, not more than one-third the total leaf surface area should be removed at any one time.

(11) Trees should be pruned to a shape typical of their species.

(12) To prevent sunburn on thin-barked trees, just enough limbs shall be removed to get the desired effect without admitting too much sunlight to the trunk of the tree or the top of large branches. The damage may be minimized by doing work on susceptible species during the dormant season.

(13) When removing the lower branches of trees for crown elevation or underclearance, care should be taken to maintain a symmetrical appearance, and cuts should not be made so large or so numerous that they will prevent normal sap flow.

(14) Periodic crown reduction for certain species such as silver maple, the true poplars, and other trees with brittle and soft wood is an established arboricultural practice. This procedure has proven beneficial in maintaining safety over long periods of time. In all cases, it is preferable to make cuts when branches are small so as to avoid developing stem decay and to begin training these trees when they are young and prune them regularly thereafter so as to avoid removing an excessive amount of leaf surface in one operation.

(Ord. No. 97-10, § 1(3-14A.5), 7-3-1997)

Sec. 110-402. Palms.

(a) Palm pruning should be performed when fronds, fruit, or loose petioles may create a dangerous condition.

(b) Live healthy fronds, initiating at an angle of 45 degrees or greater from the horizontal plane, should not be removed.

(c) Fronds removed should be severed close to the petiole base without damaging living trunk tissues.

(d) Palm peeling (shaving) should consist of the removal of the dead frond bases only, at the point they make contact with the trunk without damaging living trunk tissue.

(Ord. No. 97-10, § 1(3-14A.6), 7-3-1997)

Secs. 110-403--110-430. Reserved.

DIVISION 6. REPLACEMENT

Sec. 110-431. Failure to obtain permit.

In the event a property owner removes a tree without a permit first having been approved by the tree commission and issued by the city, the property owner shall be subject to a hearing under this article and, upon a finding of violation without settlement, then code enforcement action.

(Ord. No. 97-10, § 1(3-14.7(A)), 7-3-1997; Ord. No. 04-20, § 30, 11-3-2004)

Sec. 110-432. Reserved.

Editor's note: Section 31 of Ord. No 04-20, adopted Nov. 3, 2004, repealed § 110-432, which pertained to failure to comply, and derived from Ord. No 97-10, adopted July 3, 1997.

Sec. 110-433. Moving of landscaping.

Whenever a median cut is permitted or an access apron (driveway) is permitted to any city-maintained road, the tree commission shall evaluate the value of any landscaping that would be lost as a result of such access. The tree commission may decide that the landscape that would be lost should be moved to another publicly owned location specified by the city landscape coordinator or landscape inspector. The applicant shall be responsible for the cost of moving the landscaping as well as the actual root pruning and removal of such landscape materials under the direction of the city landscape coordinator or landscape inspector. All landscaping so removed shall be deemed to be part of any landscape approval of the applicant's site plan and shall be fully guaranteed in its new location. If the landscape is not found to have survived the move to such a new location, it shall be replaced within one year or by the date of the final certificate of occupancy on the development then under construction, whichever date should occur first.

(Ord. No. 97-10, § 1(3-14.7(C)), 7-3-1997)

Sec. 110-434. City maintenance of landscaping.

Any landscaping maintained by the city, either by formal agreement or by casual permit, on any road within the city which is functionally classified as either a county or state-maintained road which would be lost by virtue of the authorization of median cuts or access approach aprons (driveways) to the private property being developed shall be evaluated by the city landscape coordinator or landscape inspector as to the current value of such landscaping materials and cost involved in root pruning and removing the materials to another publicly owned site. The developer shall be advised of such cost and shall be given the opportunity of either paying such costs for the planting of comparable growth of similar quality and maturity where designated by the city landscape

coordinator or landscape inspector or, alternatively, of root pruning and moving such landscaping. The moving of landscaping shall meet the requirements of section 110-433. However, the city landscape coordinator or landscape inspector shall add a 25-percent increment to the cost estimate for any new landscape material to be planted at the developer's expense as a replacement allowance for landscape material which might not survive when planted.

(Ord. No. 97-10, § 1(3-14.7(D)), 7-3-1997)

Sec. 110-435. Landscaping on county-maintained or state-maintained roads to be relocated or value paid.

All landscaping on county-maintained or state-maintained roads which is to be relocated or the value thereof paid as provided in this division shall also be deemed part and parcel of the landscape plan for the developer's properties then under development permit, and no certificate of occupancy shall be issued thereon until the city is fully repaid for the lost landscaping plus the replacement allowance or, alternatively, the landscaping is root pruned, replanted and those found dead replaced prior to the issuance of the final certificate of occupancy.

(Ord. No. 97-10, § 1(3-14.7(D)), 7-3-1997)

Secs. 110-436--110-460. Reserved.