PLANNING BOARD
RESOLUTION No. 2013-36

A RESOLUTION OF THE KEY WEST PLANNING BOARD, AMENDING CHAPTER 110 OF THE CODE OF ORDINANCES FOR THE CITY OF KEY WEST ENTITLED "RESOURCE PROTECTION," BY AMENDING ARTICLE VI ENTITLED "TREE PROTECTION," BY AMENDING SECTIONS 110-252, THROUGH AND INCLUDING 110-435; AMENDING SECTION 110-252 TO ADD AND AMEND DEFINITIONS; AMENDING SECTION 110-253 TO ADJUST THE LIST OF SPECIALLY PROTECTED TREES; AMENDING SECTION 110-254 TO ADJUST THE LIST OF UNPROTECTED TREES; AMENDING SECTION 110-255 TO CLARIFY PROHIBITED ACTS AGAINST COCONUT PALM TREES; AMENDING SECTION 110-256 TO CLARIFY TREE ABUSE AND EXCEPTIONS; AMENDING SECTION 110-258 TO AMEND THE APPLICATION PROCEDURE FOR EMERGENCY AFTER-THE-FACT PERMITS; AMENDING SECTION 110-259, DUTY OF PRIVATE PROPERTY OWNER; AMENDING SECTION 110-260 TO CLARIFY CHAMPION TREE CENSUS UPDATES; AMENDING SECTION 110-287 TO CLARIFY AUTHORITY FOR USE OF FUNDS; AMENDING SECTION 110-228 TO CLARIFY HEARINGS ON VIOLATIONS; AMENDING SECTION 110-289 FOR REQUIRED NOTICE OF HEARING; AMENDING SECTION 110-290 TO CLARIFY HEARING PROCEDURE; AMENDING SECTION 110-291 TO CLARIFY COMPLIANCE SETTLEMENT AGREEMENTS; AMENDING SECTION 110-293 REGARDING STATUTORY AUTHORITY; AMENDING SECTION 110-294 TO PROVIDE FOR CONFIRMED ELECTRONIC MAIL NOTIFICATION; AMENDING SECTION 110-321 TO AMEND PERMIT REQUIREMENTS; AMENDING SECTION 110-322 TO AMEND EXCEPTIONS; AMENDING SECTION 110-323 TO REQUIRE APPLICATION TO URBAN FORESTRY

_____ Chairman

_____ Planning Director

MANAGER; AMENDING SECTION 110-324 TO PROVIDE FOR DETERMINATION BY URBAN FORESTRY MANAGER; AMENDING SECTION 110-326 TO PROVIDE FOR A FINDING BY URBAN FORESTRY MANAGER; AMENDING SECTION 110-327 TO AMEND APPROVAL CRITERIA TO ALLOW REPLACEMENT OF DICOT TREES WITH NATIVE PALMS AND NATIVE PALMS WITH DICOT TREES, ESTABLISH AMOUNT OF STANDARD DONATION AND HARDSHIP CRITERIA; AMENDING SECTION 110-331 TO AMEND ISSUANCE AND COMPLIANCE PROVISIONS; AMENDING SECTION 110-334 TO AMEND URBAN FORESTRY MANAGER AUTHORITY TO GRANT RENEWALS; AMENDING SECTION 110-335 TO CLARIFY KEYS ENERGY SERVICE REQUIREMENTS; AMENDING SECTION 110-336 TO AMEND PERMIT REQUIREMENTS FOR PRUNING OR HEAVY MAINTENANCE; AMENDING SECTION 110-366 TO PROVIDE FOR BARRICADING REVIEW BY URBAN FORESTRY MANAGER; AMENDING SECTION 110-396 TO ADD AND AMEND CERTAIN DEFINITIONS; AMENDING SECTION 110-402 TO AMEND PROVISIONS FOR REMOVAL OF LIVE, HEALTHY PALM FRONDS, AND USE OF CLIMBING SPURS; AMENDING SECTION 110-431 TO PROVIDE REFERENCE TO SECTION 110-258; AMENDING SECTION 110-433 TO PROVIDE FOR DIRECTION OF THE URBAN FORESTRY MANAGER; AMENDING SECTION 110-434, TO PROVIDE FOR EVALUATION AND DESIGNATION BY URBAN FORESTRY MANAGER; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the purpose of the Tree Protection section of the Code of Ordinances is to protect and enhance the health, growth, and planting of trees in the city; and

_____ Chairman

_____ Planning Director

WHEREAS, amendments to the Tree Protection ordinances must follow the same procedural requirements as amendments to the Land Development Regulations as specified in Sections 90-516 – through 90-524 of the Code of Ordinances; and

WHEREAS, the planning board held a noticed public hearing on July 24, 2013 and recommended approval of the proposed amendments, based on the consideration of recommendations by the planning director, city attorney, building official and other information;

WHEREAS, the planning board determined that the proposed amendments are consistent with the Comprehensive Plan; in conformance with all applicable requirements of the Code of Ordinances; are stimulated by changed conditions after the effective date of the existing regulation; will promote land use compatibility; will not result in additional demand on public facilities; will have no impact on the natural environment; will not negatively impact property values or the general welfare; will result in more orderly and compatible land use patterns; and are in the public interest; and

WHEREAS, the amended tree protection regulations contained in Chapter 110 will create consistency as well as promote the health, safety and welfare of the citizens and visitors of the City of Key West;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

RWK _____ Chairman

_____ Planning Director

Section 1: That Chapter 110, Article VI., Tree Protection, sections 110-252 through 110-435 of the Code of Ordinances is hereby amended as follows*:

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 tree plantings. (Coding: Added language is underlined; deleted language is ~~struck through~~.) 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.

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.

Chairman

Planning Director

Caliper means a trunk measurement for diameter measured 6 inches from the ground for trees up to 4 inches caliper and 12 inches from ground for larger trees.

Canopy means the leaves, branches, and stems of a tree above the ground or water, accounting for the ecology with the exception of confirmed dead branches by the Urban Forrester.

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 means the width of a tree.

Diameter at ~~breast height~~ standard height and ~~*dbh*~~ *DSH* mean the diameter of a tree's main trunk measured four and one-half (4½) feet above the ground surface. When a tree grows with multiple trunks, DSH shall be equal to the sum or aggregate of the individual stem diameters measured at four and one-half (4-1/2) feet above grade.

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

Dripline means the natural 360 degree outside end of the branches of a tree or shrub projected vertically to the ground.

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

_____ Chairman

_____ Planning Director

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 total canopy spread is reduced by one-third or more during any three hundred and sixty-five (365)-day period (except for fruit trees such as mango and avocado trees).

Heritage Tree means a non-native tree whose species is historically significant to Key West. Heritage trees include but are not limited to Sapodilla, Royal Poinciana, and Spanish Lime.

Horizontal Plane means a plane or line parallel to the horizon or ground.

Hurricane Cut means major trimming of live palm fronds above the horizontal plane.

Major maintenance means actions reducing the length of a tree or the breadth of its crown spread by one-third or more during any three hundred and sixty-five (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 three hundred and sixty-five (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 fifteen (15) feet and a mature spread of at least fifteen (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 fifteen (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 fifteen (15) feet and an average mature crown spread greater than fifteen (15) feet.

Urban Forestry Manager is the city employee responsible for administering the requirements of the city tree protection ordinance for the Tree Commission.

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/keyense
Black calabash	Amphitecna latifolia

RWK Chairman

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Black ironwood	Krugiodendron ferreum
Black mangrove	Avicennia germinans
Blolly	Guapira discolor ~~longitolia~~
Brittle/Key thatch palm	Thrinax morrisii
Buttonwood	Conocarpus erectus
Cabbage palm	Sabal palmetto
Calabash tree	Crescentia cujete
Cats claw	Pithecellobium unguis-cati
Cherry/buccaneer palm	Pseudophoenix sargentii
Cinnamon bark/Wild Cinnamon	Canella winterana
Cinnecord	Acacia choriophylla
Coconut palm	Cocos nucifera ~~nucitera~~
Coral bean	Erythrina herbacea
Crabwood	Ateramnus ~~Aferamnus~~ lucidus
Cupania	Cupania glabra
Darling plum	Reynosia septentrionalis
Dahoon holly	Ilex cassine
False boxwood	Gyminda latifolia
Fiddlewood	Citharexylum fruticosum
Florida boxwood	Schaefferia fru tescens
Florida privet	Forestiera segregata
Florida royal palm	Roystonea elata
Florida Thatch palm	Thrinax radiata
Geiger tree	Cordia sebestena
Golden dew drop	Duranta repens
Guava	Psidium guajava
Guiana plum	Drypetes lateriflora
Gumbo limbo	Bursea simaruba
Inkwood	Exothea paniculata
Jamaica caper	Capparis ~~Capporis~~ cynophallophora
Jamaica dogwood	Piscidia piscipula
Joewood	Jacquinia keyensis
Lancewood	Nectandra coriacea

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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	Ardisia escallonioides
Mastic	Mastichodendron foetidissimum
Milkbark	Drypetes diversifolia
Myrsine	Myrsine floridana
Myrtle-of-the-river	Calyptranthes ~~Calyptransthes~~ zuzygium
Paradise tree	Simarouba glauca ~~Schaefferia frutescens~~
Paurotis palm	Acoelorrhaphe wrightii
Pigeon plum	Coccoloba diversifolia
Pine acacia	Acacia pinetorum
Pisonia	Pisonia rotundata
Poisonwood	Metopium toxiferum
Pond apple	Annona glabra
Princewood	Exostema caribaeum
Randia	Randia aculeata
Redberry stopper	Eugenia confusa
Red mangrove	Rhizophora mangle
Red stopper	Eugenia rhombea
Rhacoma	Crossopetalum rhacoma
Rough strongbark	Bourreria radula
Rough velvetseed	Guettarda ~~Guettarada~~ scabra
Royal poinciana	Delonix regia
Saffon plum	Bumelia celastrina
Sapodilla	Manilkara zapota
Satinleaf	Chrysophyllum oliviforme
Sea-grape	Coccoloba uvifera ~~uvitera~~
Seven-year apple	Casasia clusiifolia

_____ Chairman

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Shortleaf fig	Ficus citrifolia
Silver palm	Cocothrinax argentata
South Florida Slash pine	Pinus elliottii var. densa
Smooth strongbark	Bourreria cassinifolia ~~succulenta~~
Soapberry	Sapindus saponaria
Soldierwood	Colubrina elliptica
Spanish lime	Melicoccus bijugatus
Spanish stopper	Eugenia foetidaia ~~-~~
Spicewood	Calyptranthes pallens
~~Soldierwood~~	~~Colubrina elliptica~~
Strangler fig	Ficus aurea
Strongbark	Bourreria ovata
Sweet acacia	Acacia farnesiana
~~Thatch palm~~	~~Thrinax radiata~~
Torchwood	Amyris elemifera
Velvetseed	Guettarda ~~Guettarada~~ elliptica
Wax myrtle	Myrica cerifera ~~cenifera~~
White ironwood	Hypedlate trifoliata
White mangrove	Languncularia racemosa
White stopper	Eugenia axillaris
Wild coffee	Colubrina arborescens
Wild dilly	Manilkara bahamensis
Wild tamarind	Lysiloma latisiliquum ~~bahamensis~~
Willow bustic	Bumelia ~~Dipholis~~ salicifolia
Yellowheart/satinwood	Zanthoxylum flavum

Sec. 110-254. Unprotected trees.

This article shall not be applicable to trees determined by the ~~city manager~~ Urban Forestry 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):

_____ Chairman

_____ Planning Director

TABLE INSET:

Areca Palm	Dypsis lutescens
Australian pine	Casuarina equisetifolia
Beefwood/Brazilian oak	Casuarina glauca
Benjamin Fig/Weeping Fig	Ficus benjamina
Black olive*	Bucidia beceras*
Brazilian pepper/Florida holly	Schinus ~~Schinustere~~ terebinthifolia ~~binthifolia~~
Carrotwood	Cupaniopsis anacardioides
Cork tree/Seaside mahoe	Thespesia populnea
Fig Trees** ~~Ficus species~~	Ficus sp. **
Fishtail Palm	Caryota sp.
LatherLeaf	Colubrina asiatica
Lead Tree	Leucaena leucocephala
Mahoe*	Hibiscus tiliaceus/Taliparti tiliaceus
Melaleuca/cajeput/punk tree	Melaleuca quinquenervia
Norfolk Island pine	Araucaria excelfa /heterophylla
Pink Shower Tree/Tabebuia*	Tabebuia heterophylla*
Orchid Tree*	Bauhinia sp.*
Queensland umbrella	Schefflera actinothylla
Traveler's Palm	Ravenala sp.
Tropical almond*	Terminalia catappa*
Yellow Elder*	Tecoma stans
Woman's tongue*	Albizia lebbeck*

TABLE INSET:

*	If tree is more than two (2) feet in diameter at ~~breast~~ standard height (DSH) then permit is required.
**	See also section 110-322.

_____ Chairman

_____ Planning Director

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. No person shall cause the removal of any frond that is located within 45 degrees of the center of the tree trunk located on private property. Hurricane Cuts (above the horizontal plane) are prohibited.

(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 in accordance with the rules and regulations contained in sections 6-1 through 6-9 of the Key West Code of Ordinances. 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 per permit period as defined in [section] 6-2, 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 found in violation 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 or any provision of sections 6-1 through 6-9.

_____ Chairman

_____ Planning Director

(c) *Exceptions.* This section shall not apply to work conducted for a city purpose by contractors or by city employees or to Monroe county, state and federal 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. ~~A person charged with violating any provision of this section shall be subject to prosecution and fine under the civil citation procedures of sections 2-676 through 2-680, or section 1-15 of the Key West Code of Ordinances or brought before the special magistrate under F.S. Ch. 162.~~

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.

_____ Chairman

_____ Planning Director

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

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

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

(6) An excessive amount (more than 50%) of b~~B~~ark 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.~~

(i) total removal of a tree that has an approved tree removal permit, or

(ii) trimming of a palm tree that has an approved maintenance trimming permit as defined in Section 110-402 (e).

(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.

RMK Chairman

Planning Director

(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~~ Urban Forestry Manager before commencing any work that will result in severing the root.

(4) Trenching of any kind shall not be done within the dripline of any tree. Only mechanical or auger type equipment shall be used to place conduit under a tree root system.

(5) Attachments to trees; excessive cut or fill.

i. *Attachments to trees prohibited.* It shall be unlawful to attach anything to a tree trunk or stem having a diameter of six inches or more, other than protective wires, braces or other similar noninjurious materials.

ii. *Excessive cut and/or fill.* It shall be unlawful to remove any material or ground within the dripline of a tree which is necessary for the growth of the subject tree.

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

(1) ~~Australian pines, Florida holly and Melaleuca~~ Any trees listed on the most recent edition of the Florida Exotic Pest Plant Council Invasive Plant List and not found on the City of Key West Sec. 110-253 specially protected trees list are not protected by this section.

(2) Utility line clearing in conformance with ANSI A-300 and ANSI Z133.1 safety standards and National Electrical Safety Code clearances does not constitute tree abuse.

_____ Chairman

_____ Planning Director

(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.~~

(4) Trees severely damaged by hurricane, windstorm, flood or like event declared a city emergency by the Mayor on behalf of the City Commission.

Sec. 110-257. Ficus trees.

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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 Urban Forestry Manager, within three (3) business days, ~~landscape coordinator or landscape inspector and the Tree Commission chairperson give~~ recommends ~~their~~ approval, and this action is reasonably calculated to dissipate the threat.

(a) Within ~~two~~ three (3) business days of such action, such person shall file an application to the Tree Commission for an after-the-fact tree permit for its replacement to include photos of three sides of the tree prior to removal or trimming.

(b) 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.

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

_____ Chairman

_____ Planning Director

(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, right-of-ways, roadways, obstruct vision of traffic signs or traffic lights, ~~or~~ obstruct views of any street or alley intersection or grow into utility wires. All landscaping shall be trimmed at least 80 inches above a walking surface and a minimum width of 36 inches for clear passage, or the width of the sidewalk.

(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.

Sec. 110-260. Champion trees.

(a) The tree commission shall designate and maintain a ~~record~~ census of champion trees in Key West. The ~~Tree Commission~~ Urban Forestry Manager shall ~~take a champion tree census during the five (5) years after the effective date of this section, and from time to time thereafter~~ update the census every five years or after a major hurricane.

_____ Chairman

_____ Planning Director

After a tree is designated a champion tree, the ~~landscape division~~ Urban Forestry Manager shall notify the property owner within sixty (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.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Sec. 110-286. Personnel.

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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 Urban Forestry Manager and approved 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.

_____ Chairman

_____ Planning Director

Sec. 110-288. Hearings on violations.

When the Urban Forestry Manager ~~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~~ Urban Forestry Manager may schedule a hearing before the tree commission. The hearing may occur at a regular or a special meeting.

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 (10) 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~~ Urban Forestry Manager ~~landscape coordinator~~ determines that the alleged violation presents an immediate and serious threat to the public health, safety, and welfare, the Urban Forestry Manager ~~landscape coordinator~~ may forward the case directly to the code enforcement special master as prescribed in article VI of chapter 2.

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

_____ Chairman

_____ Planning Director

pursuant to Florida law by written minutes. 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.

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 Urban Forestry Manager ~~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 or a non-profit organization, as determined and approved by the tree commission, (based on replacement value);

(3) A replanting of an approved tree, preferably a Florida #1 tree or trees on the subject property;

(4) Time limits of performance by the person; and

_____ Chairman

_____ Planning Director

(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.

(6) Require the homeowner to hire an arborist to make corrective cuts on regrowth of an unauthorized trimmed tree after a determined amount of time.

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 (10) days of the effective date of the sales contract to provide the buyer with a copy of the compliance settlement agreement. The Urban Forestry Manager ~~landscape division~~ shall issue a letter to the property owner when compliance is achieved.

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

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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 pursuant to F.S.162.09(2)(a).

_____ Chairman

_____ Planning Director

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~~ sent either by hand or by mail, return receipt requested, or confirmed electronic mail or fax, within ten (10) days of the hearing.

Sec. 110-295. Authority of special master.

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DIVISION 3. PERMIT

Sec. 110-321. Required.

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

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

(2) Any monocot/palm tree which is ~~eight~~ ten (10) feet or more in height measured to the terminal bud. Palm tree counts are determined by root ball; or

_____ Chairman

_____ Planning Director

(3) Any dicot/canopy tree which is ~~3 1/2~~ four (4) inches or more in diameter at ~~breast~~ standard height (DSH); or

~~(4) Any plants located on public property.~~

(4) Any maintenance to (major or minor) or transplanting of a tree recognized as being a Champion Tree.

(5) The use of climbing spikes for the purpose of maintenance trimming of a palm tree that can not be accessed by a bucket truck.

(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.

(c) The Urban Forestry Manager shall be authorized to approve permits for the removal of non-native palms, for maintenance trimming of palm trees using spikes, for major maintenance of all dicot trees, transplantations, root trimming of trees, and construction activities near trees.

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~~ standard height (DSH) of two (2) 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 citrofolia) shall in all instances be required.

_____ Chairman

_____ Planning Director

(b) 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 thirty (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)~~(c) 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.

(d) A permit is not required for the trimming of a dicot tree if; less than 1/3 of the tree and/or canopy is being removed; as defined in Sec. 110-252 as minor maintenance, and the trimming does not impact the overall shape of the tree; branches being removed are not a primary, structural branches and are less than 6 inches in diameter; and the work is done according to ANSI A-300 standards. A permit is required for the removal of large, structural branches and if the tree is being reduced in size and density by more than 1/3 as defined in Sec. 110-252 as major maintenance. A tree trimming permit will include a condition that requires the tree to be monitored for one year to ensure the health of the tree.

Sec. 110-323. Application.

RWK Chairman

CC Planning Director

All applications for a tree removal permit shall be made to the ~~city's landscape division~~ Urban Forestry Manager. 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 notarized 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 with flagging tape.

Sec. 110-324. Determination by Urban Forestry Manager.

After receiving an application for a tree removal permit, ~~a representative of the city's landscape division~~ the Urban Forestry Manager 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~~ location. The ~~landscape division~~ Urban Forestry Manager 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~~ Urban Forestry Manager shall issue the permit forthwith.

_____ Chairman

_____ Planning Director

Sec. 110-325. Review and action by Tree Commission.

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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~~ Urban Forestry Manager 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.

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;

_____ Chairman

_____ Planning Director

(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. The tree commission shall have the ability, at the request of the applicant, to allow the replacement of dicot trees with native palm trees and the replacement of palm trees with dicot trees in areas due to unique placement challenges or existing landscape without losing overall canopy where possible;

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

(a) Donated to ~~the public or to~~ a non-profit organization ~~recommended~~ approved by the tree commission; and

~~(b) Planted by the applicant on public property with the advice and consent of the Tree Commission and the engineering department; and~~

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

(7) Funds equivalent to the cost of a Florida # 1 canopy tree or palm, (determined by the Tree Commission using the city code minimum tree size specified in Section 108-382, then divided by the city code specified diameter of two and one-half (2-

_____ Chairman

_____ Planning Director

1/2) inches (DSH) ~~value of the tree~~ will be donated by the applicant to the city for use as provided by section 110-287.

(a) The current amount of the standard donation, approved by the Tree Commission, is $150.00 per caliper inch for a canopy tree. For palms the approved amount is $250.00 per palm removed. Rates may be adjusted by Resolution of the city commission.

(b) In those instances including emergencies pursuant to Sec 110.258, where an applicant cannot pay for the replanting of trees on their property or cannot afford to make the standard donation, or the size of the property does not allow for suitable replanting, the Tree Commission shall make a reasonable effort to reduce the mitigation requirements if evidence can be shown that the hardship exists. In all other cases, the replanting of trees or standard donation is required. The Tree Commission shall consider the following factors when determining if a hardship exists:

i. For an individual, either the current receipt of assistance through the mayor's revolving loan fund, rental rehabilitation program, or other program which is income-indexed and which provides for physical improvements to the subject property; or the current receipt of fixed income benefits such as social security, AFDC, or private pension benefits, and the applicant's total income is below 80 percent of the median income for the city, all as evidenced by income tax return or affidavit; or

ii. For a corporation, current tax-exempt status as a nonprofit corporation under section 501(c)(3) of the Internal Revenue Code.

_____ Chairman

_____ Planning Director

Sec. 110-328. Findings of disapproval.

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Sec. 110-329. Reserved.

Sec. 110-330. Application of criteria.

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Sec. 110-331. Issuance.

(1) 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~~ Urban Forestry Manager which shall issue a permit.

(2) Permits will be finalized within five (5) business days of the tree commission approval of the permit. Final, signed permits will be held in office for one week then mailed to the applicant and representative.

(3) Compliance

(a) Replacement palms shall be native palms trees, 4 ft tall in total height from ground to frond.

(b) Replacement dicot trees shall be measured by caliper and shall be Florida #1 grade native trees or trees listed in Sec 110-253.

(c) A credit of 2:1 shall be given to the homeowner/applicant for using State listed Threatened or Endangered plant species on replacement values for dicot trees.

RMK Chairman

OC Planning Director

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 (6) months from the date of denial and in accordance with tree commission regulations.

Sec. 110-333. Posting.

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Sec. 110-334. Expiration.

All tree removal permits shall expire six (6) 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~~ Urban Forestry Manager shall grant one six (6) month renewal as of right and may grant a summary administrative approval of future renewal applications.

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. Permits for the removal of trees requested by Keys Energy Service do not require replacements.

Sec. 110-336. Pruning or heavy maintenance.

RMK Chairman

OC Planning Director

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

(2) A permit is not required for the trimming of a dicot tree if; less than 1/3 of the tree and/or canopy is being removed as defined in Sec. 110-252 as minor maintenance, and the trimming does not impact the overall shape of the tree; branches being removed are not primary, structural branches and are less than 6 inches in diameter; and the work is done according to ANSI A-300 standards.

(3) A permit is required for the removal of large, structural branches and if the tree is being reduced in size or overall shape and density by more than 1/3 as defined in Sec. 110-252 as major maintenance.

Sec. 110-337. Appeals.

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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~~ Urban Forestry Manager. 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

Chairman

Planning Director

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.

Sec. 110-367. Fences and walls.

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Sec. 110-368. Failure to comply.

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Sec. 110-369. Tree cutting standards.

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DIVISION 5. PRUNING STANDARDS

Sec. 110-396. <u>Definitions.</u>

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.

_____ Chairman

_____ Planning Director

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.

Certified Arborist means a professional arborist who is certified by the International Society of Arboriculture and has a valid certificate number.

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.

_____ Chairman

_____ Planning Director

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.

BMK Chairman

QC Planning Director

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~~ the primary terminal shoot or trunk of a 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.

_____ Chairman

_____ Planning Director

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.

_____ Chairman

_____ Planning Director

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.

RWC Chairman

DC Planning Director

Sec. 110-397. Class I pruning.

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Sec. 110-398. Class II pruning.

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Sec. 110-399. Class III pruning.

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Sec. 110-400. Class IV pruning generally.

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

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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 above the level horizontal plane initiating at the heart of the tree.

(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.

_____ Chairman

_____ Planning Director

(e) Climbing spurs shall not be used to trim palms unless;

(1) a total tree removal permit is approved according to Sec. 110-321; or

(2) a permit for maintenance trimming has been approved by the Tree Commission and satisfies the following criteria;

i. the palm tree can not be accessed by a bucket truck.

ii. the work is being done by a certified arborist.

iii. the tree is of a height that safety of the arborist is an issue.

(f) Hurricane cuts are not approved methods of palm pruning.

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; subject to Sec. 110-258, 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.

Sec. 110-432. Reserved.

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

_____ Chairman

_____ Planning Director

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~~ Urban Forestry Manager. 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~~ Urban Forestry Manager. 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.

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~~ Urban Forestry Manager 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

_____ Chairman

_____ Planning Director

the city ~~landscape coordinator or landscape inspector~~ Urban Forestry Manager 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~~ Urban Forestry Manager 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.

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

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Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

_____ Chairman

_____ Planning Director

Read and passed on first reading at a meeting held this 24th day of July, 2013.

Authenticated by the Chairman of the Planning Board and the Planning Director;

8/12/2013

Richard Klitenick, Chairman — Date
Key West Planning Board

Attest:

8.12.13

Donald Leland Craig, AICP — Date
Planning Director

Filed with the Clerk:

Cheryl Smith 8-13-2013

Cheryl Smith, City Clerk — Date

_____ Chairman

DC Planning Director