

CHAPTER 800. NATURAL AND CULTURAL RESOURCES PROTECTION

SECTION 802. TREE PRESERVATION AND REPLACEMENT

802.1. Intent and Purpose

It is the intent and purpose of this section to preserve, maintain, and protect existing native and noninvasive trees on site and to require a minimum number of trees as a condition of land development approvals. The list of native trees can be found at <http://www.floridayards.org/fyplants/index.php>.

802.2. Applicability

This section shall apply to all land in unincorporated Pasco County, except for the activities of registered commercial growers on the premises of plant or tree nurseries, botanical nurseries, botanical gardens, or tree farms (sponsored by the American Forest Foundation).

802.3. Tree Removal

A. Permits Required

A Tree Removal Permit is required for the removal of all five (5) inch diameter at breast height (dbh) or greater trees, except in the following circumstances:

1. Utilities

Removal by agents of a utility for overhead and underground utilities service, including distribution, collection and transmission lines, and pipelines subject to the following limitations:

- a. Pruning or trimming a tree inconsistent with the American National Standards Institute (ANSI) 300A 2001, as amended, is prohibited.
- b. Removal of trees eighteen (18) inches dbh and larger within corridors and/or easements shall require notification, prior to removal, by telephone to the County Administrator or designee and notification to the property owner and/or occupant at least three (3) business days prior to removal.

2. County Maintenance

County Road and Drainage Maintenance Projects

3. Management Plans with Tree and Vegetation Removal

Projects for which a plan has been approved by a Federal, State, or local agency or water management district for the removal of undesirable invasive or nonnative vegetation on lands owned, controlled, or managed for conservation, excluding vegetation in surface waters and wetlands. This includes alteration of vegetation

pursuant to an adopted management plan for government-maintained parks, recreation areas, wildlife management areas, conservation areas, and preserves.

4. County Approved Management Plan

Activities consistent with a management plan adopted by or reviewed and approved in writing by the County, provided that the activity furthers the natural values and functions of the ecological communities present, such as clearing firebreaks for prescribed burns.

5. Fencing

The minimal removal of trees necessary to install a fence or wall defining a property line, provided that all of the following conditions are complied with:

- a. The fencing or wall is not related to the requirements of a development plan;
- b. The path cleared for the fence does not exceed ten (10) feet in width;
- c. No equipment heavier than a one (1) ton pickup truck, hand-held outdoor power equipment, or a standard farm tractor is used in clearing the fence or installing the fence; and
- d. No dredge or fill activity is required other than the installation of posts and fence materials.

6. Survey or Other Test Required

The necessary removal of vegetation by, or at the direction of, a State of Florida licensed professional surveyor and mapper, professional geologist, or professional engineer to conduct a survey or other required test, provided that no tree of special significance tree is removed and the path cleared does not exceed ten (10) feet in width.

7. Exotic Species (provided the tree is not part of a required landscape plan or tree permit plan) and Invasive Species

8. Palms and Pines

Any tree of the palm family or pine family (other than long-leaf pine) on single-family lots, unless part of an adopted replanting or landscaping plan.

9. Bona Fide Agricultural Land

Tree removal on lands classified as bona fide agricultural land for ad valorem taxation purposes pursuant to Section 193.461, Florida Statutes, or proposed for bona fide agricultural purposes, except that such activity must be done in compliance with the Southwest Florida Water Management District (SWFWMD), the Florida Department of Environmental Protection regulations, and silviculture Best Management Practices. Tree replacement and/or mitigation shall be required for trees removed pursuant to a proposed application for land classification if such application is not granted within one (1) calendar year of removal. This exemption from the tree removal requirements shall expire upon submittal of a PSP or PDP application, unless the PSP or PDP is denied, rescinded or expires, in which case the exemption shall be reinstated. Pine trees and palm trees or other trees planted specifically for harvesting are not included and may be harvested pursuant to the agricultural exemption. Applications for a PSP or PDP submitted prior to June 8, 2016, the effective date of Ordinance 16-12, may continue to rely on this exemption after the submittal of a PSP or PDP. The expiration of the exemption from the tree removal requirements hereunder shall not affect a landowner's ability to apply for, receive, or maintain an agricultural classification pursuant to Florida Statutes Section 193.461.

10. Single-Family Residential Lots with Existing Homes

Tree Removal Permits on single-family lots with existing homes are only required for trees greater than five (5) inch diameter at breast height.

B. Tree Removal Permit Applications

1. Tree Removal Associated with Development Activity

a. Intent and Purpose

It is intended that consideration of tree removal will be part of a holistic evaluation of a project proposal. While retaining existing trees and vegetation is encouraged, it is also recognized that trees have a life span and are subject to injury and disease. It is the intention of this section to protect trees that are currently healthy and viable and are able to remain so for a significant period after development. It is also recognized that tree removal is often an inevitable part of development and as such, replacement of tree canopy is often a necessary and preferred alternative.

b. Development Plan Submittals

Applications associated with Development Permit requests shall include the following:

- (1) A tree location survey identifying all trees ten (10) inches dbh and larger. Unless otherwise permitted by the Zoning Administrator or designee, tree surveys shall not have been completed more than three (3) years in advance of submittal. In no case, shall tree surveys have been completed more than five (5) years in advance of submittal, unless part of a previous approval. If a tree survey was prepared in association with a previous approval, a modified tree survey verifying tree diameter information (as certified by an arborist) shall be submitted at the time of preliminary site plan review.
- (2) An inventory of identified trees by type and size (not including palm and pine trees, except for longleaf).
- (3) A tree plan prepared or approved by a registered landscape architect as authorized by Chapter 481, Florida Statutes, as amended, or other type of professional as approved by the County Administrator or designee. The tree plan shall be part of the landscape plan for the site and the overall design plan and shall consider the following:
 - (a) Minimizing tree removal through design creativity and sensitivity using requests for alternative standards and modifications as appropriate to permit existing trees to remain on site.
 - (b) Design and location of streets, accessways, sidewalks, and other hardscape shall consider the location of trees.
 - (c) Stature, strength, health, and endurance of existing trees with due consideration given to fill requirements of the proposed development.

c. Development Approval Required

Approval to remove trees shall be part of the overall development approval and shall only be allowed after the development approval is granted.

2. Individual Tree Removal Permits

a. Applications

Applications for individual Tree Removal Permits, or Tree Removal Permits not in association with a development proposal, shall be submitted on the forms and in the manner prescribed by the County Administrator or designee in the Development Manual. The application shall include a sketch of the location of the tree or trees proposed for removal and an analysis of the reason removal should be authorized.

b. Criteria to Allow Removal

The following shall be considered by the County Administrator or designee when determining whether to approve a request for tree removal:

(1) Proximity to Structures

Whether the tree or root system is determined to be detrimental to the integrity of a structure or proposed structure's foundation.

(2) Thinning

Whether the removal of the tree would be beneficial to the enhanced growth of other trees on site.

(3) Safety

Whether the tree poses a hazard and the hazard cannot be eliminated through other means, such as trimming.

(4) Condition of Tree

Whether the tree is dead; irreversibly diseased; insect ridden; or weakened by age, storm, fire, or other natural causes or act of God rendering it beyond saving. When this condition is field verified by an arborist, tree replacement is not required.

(5) Not Viable in Future

If the tree will be damaged or killed by required site grading, excavation, and/or fill.

(6) Whether the tree is subject to the provisions of Section 802.3.D, Removal of Previously Approved and Required Tree Plantings.

c. Denied Requests

In circumstances where the request to remove a tree or trees is denied by the County Administrator or designee, the applicant may supply additional information from a certified arborist for review.

C. Tree Replacement and Mitigation

1. Tree Replacement

a. Residential Tree Replacement where trees were not planted in accordance with a site development plan approved by the County.

A replacement tree shall be required to be planted for each tree removed from existing single family, two (2) family, or mobile home lots, including those on agriculturally zoned property, where the removal will result in fewer beneficial trees remaining on the lot in accordance with Section 905.2.D.2.a.

b. Replacement on Other Than Residential Lots

(1) Replacement Ratio

Trees of ten (10) inches dbh and larger which are allowed to be removed shall be replaced as follows:

(a) For live oak (*Quercus Virginiana*), the total caliper inches of replacement trees shall equal the total caliper inches of live oaks removed, rounded to the nearest whole number.

(b) For other trees, the total caliper inches of replacement trees shall equal one-third the total caliper inches removed, rounded up to the next whole inch.

(2) Planting Credit

Credit against the required replacement trees will be given for trees planted pursuant to the landscaping and buffering requirements. Trees located within environmentally sensitive lands shall not be credited toward the total number of required trees.

(3) Tree Mitigation Fund

If the applicant demonstrates to the satisfaction of the County Administrator or designee that a site cannot accommodate the total number of replacement trees required by this section as a result of insufficient planting area, the applicant shall provide a monetary contribution to the Tree Mitigation Fund at the rate established by resolution of the Board of County Commissioners (BCC) as follows:

- (a) For residential projects, \$50.00 per inch of the total caliper inches of replacement trees that could not be accommodated on the site, but not to exceed \$500.00 for each residential unit.
- (b) For residential projects which are designated as qualifying affordable housing projects, \$10.00 per inch of the total caliper inches of replacement trees that could not be accommodated on the site, but not to exceed \$50.00 for each residential unit.
- (c) For non-residential projects, \$50.00 per inch of the total caliper inches of replacement trees for that could not be accommodated on the site , but not to exceed \$500.00 for each 2,000 square feet of first floor building area.
- (d) For non-residential projects where there is no building area, \$50.00 per inch of caliper inches of replacement trees that could not be accommodated on the site.

D. Removal of Previously Approved and Required Tree Plantings where trees were planted in accordance with a site or development plan approved by the County.

1. Applicability

This section applies only to trees that were planted as part of a development project where the trees installed in accordance with the approved plan are damaging utilities, sidewalks, parking areas, or structures (problem trees).

2. Verification of Problem Trees where trees were planted in accordance with a site or development plan approved by the County prior to January 1, 2017.

The applicant shall provide written confirmation that the tree is causing damage and that measures, such as excavation under roots, meandering or reinforcing the sidewalk, or pruning roots are not appropriate and the tree should be removed. If not all trees of a particular species are causing similar-type damage, it may be presumed that the remaining trees of that species will become problematic in the future and may also be removed pursuant to this section.

3. Verification of Problem Trees where trees were planted in accordance with a plan approved by the County after January 1, 2017.

A licensed arborist or certified landscape architect shall provide written verification that the tree is causing damage and that mitigation efforts, such as excavation under roots, meandering sidewalks, installation of alternate sub-base materials or pruning roots are not appropriate and the tree should be removed.

4. Authority to Request Removal of Problem Trees

- a. In residential projects, the homeowners' association, Community Development District, or similar entity having authority may submit an application for removal of problem trees located on the property under the control of the entity. Where such entities do not exist, an authorized representative of the neighborhood, through petition of the affected owners, may apply.
- b. In nonresidential projects, the property owner, merchants' association, or similar entity having authority may submit an application for problem tree removal.

5. Submittal Requirements

An applicant shall submit required information in the form as specified by the County Administrator or designee. Plans shall be drawn at a readable scale and include:

- a. The location and number of the problem trees to be removed;
- b. The planting locations and number of replacement trees, including botanical names;
- c. Application fee; and
- d. Proof of authority.

6. Replanting Requirements

- a. Problem trees shall be replaced at 1:1 for each problem tree removed.
- b. Replacement trees shall be of a species appropriate for the placement area and comply with the principle of "right plant, right place." Additional resources, such as Costello, L.R. & Jones, K.S. Reducing Infrastructure Damage By Tree Roots: A Compendium of Strategies, 2003, should be consulted.
- c. Replacement trees shall meet the quality of standards in this Code and be planted, installed, and maintained according to the requirements of this Code.
- d. Replacement trees shall only be planted within an easement so as not to interfere with the use of that easement, and shall not be planted under any present or planned overhead or underground utility, nor within any County maintained rights-of-way or on public lands without prior County approval through the appropriate review process.
- e. Replacement trees proposed for planting in County maintained rights-of-way will require the submittal of a report and mitigation plan prepared by a Certified Landscape Architect or Licensed Arborist. Said mitigation plan shall outline preventive measures for trees that have a potential to cause damage to structures, including but not limited to, sidewalks, utilities, parking areas, storm drains, or common ground walkways as identified by Certified Landscape Architect or Licensed Arborist. Such mitigation measures shall include solutions such as installation of alternative sub-base materials, installation of root barriers, meandering sidewalks, or other similar preventive measures to ensure the most favorable outcome for healthy and viable plantings.
- f. Where possible, replacement trees shall be installed in the same location as the problem tree was formerly located.
- g. If an appropriate replacement tree cannot be installed in the same location as the problem tree, the replacement tree shall be planted on site in another location or in other common areas, such as around drainage ponds, near a clubhouse, a park, or at the entrance of the project.
- h. If all of the replacement trees cannot be replaced on site, the applicant shall contribute to the Tree Mitigation Fund as provided for in Section 802.3.C.1.b.(3) and 802.3.E.

E. Tree Mitigation Fund

1. Establishment

A tree mitigation trust fund is hereby established. All monies received by the County pursuant to this section shall be deposited in a separate revenue account known as the Tree Mitigation Fund, established and maintained apart from other general revenue funds and accounts of the County.

2. Purpose

The fund shall be used solely for the reimbursement of the purchase and planting of drought tolerant trees, as listed by the SWFWMD or the University of Florida Institute of Food and Agricultural Sciences and by the County Administrator or designee, and other landscape plants or native trees and landscaping plants meeting the intent and purpose of this Code and the administrative costs as designated by the BCC.

3. Authorized Locations

Trees and other landscaping plants and materials purchased with fund monies may only be planted:

- a. On land owned by or under the control of the County;
- b. Where the County desires to assist homeowners and affordable housing project meet the tree plant requirements of this Code, after an assessment by the Community Development Division of property value and income level;
- c. To assist in the redevelopment of designated portions of Pasco County, including providing assistance to individual property owners; and
- d. To assist the District School Board of Pasco County in the creation and maintenance of attractive community assets. In this circumstance, the assistance shall be specifically approved by the BCC.

F. Tree Standards

All trees required by this section to remain or be planted shall be alive, in good health, and meet the following standards:

1. Florida Grade No. 1. Trees to be planted shall be Florida Grade No. 1 or better pursuant to the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Grades, and Standards for Nursery Plants, which is incorporated herein by reference.

2. Trees shall be equal to or greater than two (2) inches in caliper. Multi-trunked trees shall be equal to or greater than two (2) inches in caliper with a minimum of three (3) trunks.
3. Trees shall meet the following diversity standards:

<u>Required Number of Trees</u>	<u>Required Species</u>
1-5	1
6-10	2
11-15	3
16-20	4
21-25	5
26-30	6
31-35	7
35 or more	8

4. Invasive or exotic species located within a project area shall be removed.
5. Tree plans shall designate a person or entity, other than the County, to be responsible for maintenance.
6. All trees shall be planted according to the Florida Chapter, International Society of Arboriculture Standards for Planting, which is incorporated herein by reference. All trees must be maintained in good condition and planted in locations with adequate open space to allow for mature tree-canopy development.
7. A tree of the required size and type shall replace any required tree that dies within one (1) year from completion of construction of associated infrastructure improvements; issuance of a Certificate of Occupancy (CO) for the lot; or where no CO is required, final inspection or first use of the lot. Planting of such tree shall take place within thirty (30) days, unless an extension is requested by the applicant and granted by the County Administrator or designee. To increase likelihood of survivability, the tree may be located elsewhere on site.
8. Trees shall not be planted within any easement so as to interfere with the use of that easement, nor under any present or planned overhead utility, nor in any rights-of-way or on public lands without County approval through the appropriate review process.
9. Palms

Palm trees may be substituted for shade trees at a rate of three (3) palm trees, grouped together, for one (1) shade tree. Exceptions may be made for the Phoenix (not including Roebellini), which may be planted individually. Palms must have a minimum of ten (10) feet of clear trunk at the time of installation.

G. Tree Protection Requirements

To ensure a healthy tree canopy in Pasco County, the following tree protection measures shall be complied with:

1. Tree Protection During Development

- a. Marking and Barriers. Prior to the clearing or grubbing of land or the removal of any tree, the applicant shall clearly mark all trees for which Tree Removal Permits are requested and shall erect barriers around trees to be retained so as to create a protected zone.
 - (1) The protected zone shall radially extend from the tree trunk at a minimum distance equal to the tree's drip line.
 - (2) Barriers a minimum three (3) feet in height shall be erected outside the protected zone to prevent encroachment. Barriers shall remain in place and be in good condition throughout all development and building activity. Silt barriers, hay bales, or similarly effective erosion-control barriers shall be required in any areas where erosion or siltation may cause damage to retained trees.
 - (3) For large property areas, contained stands of trees to be retained that are separated from grubbing, clearing, and construction, in lieu of placing barriers around each tree, the stand of trees may be partitioned off by placing the barriers around the perimeter of the stand area on the sides where grubbing, clearing, construction, etc., is occurring, as long as an equivalent protected zone is established.
- b. The application shall not cause or permit the movement of equipment or the storage of equipment, material, and debris or fill to be placed in the protected zone. No excavation shall occur within the protected zone, and there shall be no cleaning of equipment or material or the storage or disposal of waste materials, such as paints, petroleum products, oils, solvents, asphalts, concrete, mortar, or any other material within the protected zone. There shall be no fire or burning within thirty (30) feet of the protected zone.
- c. Protective barriers may be removed for the final grading. Removal of vegetation or any landscaping activities within the barrier area shall be accomplished by mowing or hand clearing. If landscaping is to be located within the protected zone, clearing by light rubber-wheeled machinery only in the area and to the extent necessary shall be allowed.

2. Utilities

Utility lines which are tunneled beneath tree roots in order to protect feeder roots are permitted. Elsewhere, trenching is allowed no closer to the tree's trunk than two-thirds of the drip line radius. However, protective measures shall be taken as specified in the *Tree Protection Manual for Builders and Developers*, as amended and published by the Florida Department of Agriculture and Consumer Services, which protective measures for feeder roots are incorporated herein by reference.

3. Activities Prohibited

When a tree is damaged by acts/omissions prohibited by this section, separate violations (or counts) may be charged for each inch of the tree measured at dbh.

The following are prohibited:

- a. Irreversible damage to a tree.
- b. Pruning or trimming any tree (except invasive) in a manner inconsistent with ANSI Pruning Standards, Section A300 2001, as amended, which is incorporated by reference.
- c. Topping of any tree.
- d. Damaging, in any manner, any tree located on public lands.
- e. Failure to remove guy or support wires, where used, from trees within six (6) months after planting.

H. Trees of Special Significance

1. Designation

Trees of special significance are those trees or grouping of trees designated as such by resolution of the BCC. Designations can only be initiated by the property owner(s) of such trees or, if on County property, by County staff. After initiation, designation requests shall be reviewed by County staff, and those trees meeting the requirements of this section shall be presented to the BCC who shall decide whether to approve the designation. Trees may be designated if one (1) of the following criteria exists:

- a. It is a historic tree, which is a tree of notable historical interest and value to the County because of its location or historical association with the community.
- b. It is a specimen or grand tree, which is a tree of high value to the community because of its type, size, age, exceptional characteristics, or other relevant criteria.

- c. It is a champion tree, which is a tree that has been identified by the State Division of Forestry as being the largest of its species in the United States or the world.
2. Trees designated as trees of special significance shall have a preservation easement, prepared by the owner(s) of the tree(s), created around them, and extending a minimum of fifteen (15) feet in all directions from the trunk. The preservation easement shall be recorded by the owner(s) of the tree(s) in the Public Records of Pasco County.
3. Special Protection

An administrative variance of the required minimum front, rear, and side yard setbacks may be granted to allow the preservation of trees of special significance. Topping, irreversible damage to, or incorrect pruning of trees of special significance shall be subject to all penalties and fines as provided by this Code. The removal of any designated tree of special significance requires a permit, a site inspection, and a written evaluation by a certified arborist demonstrating that removal is deemed necessary to avoid the immediate peril to life, and/or property, and/or the condition of the tree warrants removal; removal must be approved by the BCC and the replacement requirements shall be as determined by the BCC.