

DIVISION 7. TREE PROTECTION AND REPLACEMENT

Sec. 6.7.1. Purpose and intent.

A. The purpose of this division is to regulate the protection, removal, replacement, and maintenance of trees in public and private property. Tree protection and replacement shall work cooperatively with landscaping requirements to preserve and enhance the aesthetic quality of Marion County, complementing the natural and built environments, while providing shade and habitat through:

- (1) Preservation of existing trees and native plant communities;
- (2) Replacement of trees that are removed;
- (3) Maintenance of trees and
- (4) Prevention of tree abuse; and
- (5) Enforcement.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 6.7.2. Exceptions.

The preservation and replacement of trees and protected plant species shall apply to all development with the following exceptions:

- A. The removal of trees for purposes of conducting bona fide agricultural uses such as field crops, landscape nursery, citrus nursery, forest crops, animal husbandry, greenhouses, aquaculture, silviculture and the like, on lands with an agricultural zoning classification.
- B. Property used for bona fide agricultural use, as listed in Section 6.7.2.A above, zoned other than agriculture and possessing an agriculture classification from the County Property Appraiser per § 193.461 FS. Lands with an urban land use designation may not use this exemption.
- C. On lands where either of the two exemptions in Sections 6.7.2.A and B above has enabled tree removal without a permit, no applications for any land use changes shall be made within one year of the tree removal date unless:
 - (1) The applicant provides tree replacement at 100 inches DBH of native trees per acre, or lower based on the pre-clearing density of existing trees, or
 - (2) The applicant/owner provides payment into a Tree Mitigation fund in the equivalent amount of planting 100 inches DBH of native trees per acre or lower, based on the pre-clearing density of existing trees.
- D. The removal of trees which have a DBH of less than 10 inches, except those trees which have been designated replacement and conservation trees pursuant to Section 6.7.9.G.
- E. The removal of trees on an individual parcel of record used or to be used for single-family dwellings.
- F. The removal of trees associated with the County's construction, rehabilitation, or routine maintenance of roads and drainage systems within public rights-of-way or easements.

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- G. The removal of trees associated with the rehabilitation or routine maintenance of roads and drainage systems within private rights-of-way or easements.
 - H. Tree removal or trimming for the construction of firebreaks, firelines, and surveying.
 - I. The removal of trees which pose an immediate and direct threat to persons or property, and the removal of trees that are dead or dying due to natural causes.
 - J. Transplanting of any size tree.
 - K. Removal of trees required by a development plan which has been fully approved by the County.
 - L. Removal of exotic tree or nuisance tree species as listed by the UF/IFAS Assessment of Non-native Plants, "Prohibited" or "Invasive - Not Recommended" tables, as updated.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 6.7.3. Tree protection.

- A. Design for the protection of trees.
 - (1) Every reasonable effort should be made to minimize tree removal. Tree preservation shall be an integral part of the site planning or subdivision design process. Tree preservation shall be conceived in a total pattern throughout the site, integrating the various elements of site design, preserving and enhancing the particular identity of the site.
 - (2) The preservation of existing trees and vegetation for use as perimeter land use buffers shall be considered during the site design process and implemented to preserve habitat while lowering the cost of development.
 - (3) In all cases, a post-development ratio of shade trees to the area of the site as required in Section 6.7.4.
 - (4) All trees with a DBH of 10 inches or larger shall be considered protected trees unless listed by the UF/IFAS Assessment of Non-native Plants, "Prohibited" or "Invasive - Not Recommended" tables, as updated.
 - (5) A proper evaluation shall be made to determine if existing protected trees, or groups of trees, are good candidates for preservation before final site plans are developed. The evaluation shall be used to guide decisions about tree preservation, tree protection, and tree removal and shall include:
 - (a) Determination of species of tree(s);
 - (b) Assessment of the health of the tree(s);
 - (c) Determination of the condition of the tree(s) based on the species, health, and age and whether the tree(s) will provide a lasting value to the finished project (trees with fast growth habits and have a shorter life span may not be desirable);
 - (d) Assessment of the size (DBH and canopy) of the tree(s);
 - (e) Assessment of the rarity, uniqueness, and character of the tree(s);
 - (f) Assessment of the historic value, status as a specimen tree, or other outstanding quality;
 - (g) An general overview of the site and whether the tree(s) will provide a lasting and positive contribution to the site and general surroundings, and
 - (h) Determination if any minor alternations to the site topography will impact the long-term viability of preserving existing trees.

B. Tree protection zones are as follows:

- (1) Tree Protection Zone (TPZ) is a defined area surrounding the trunk of a tree (or group of trees) to be preserved, intended to protect roots and soil to ensure future tree health and stability.
 - (a) All tree measurements for tree protection and preservation shall be made at 4.5 feet above grade to establish the correct diameter at breast-height (DBH).
 - (b) The TPZ shall be located at the dripline of the tree (or group of trees) to be preserved. For tree protection requirements, the dripline shall be indicated on a plan as required in Section 6.7.6.E and determined by either of the following methods:
 1. Field location by either a Surveyor and Mapper, a Landscape Architect, or a Certified Arborist, or
 2. Utilizing a "desktop canopy" rule generally understood as using one foot for every inch of DBH. For example, a 30-inch diameter tree would have a 30-foot radius dripline.
- (2) The Critical Root Zone (CRZ) is the area of soil around a tree trunk where roots are located that provide stability and uptake of water and minerals required for tree survival.
 - (a) No excavation, filling, trenching, or other intense disruption of the root zone is allowed within the CRZ.
 - (b) The CRZ is established on a tree-by-tree basis through on-site review and assessment by either a Landscape Architect or a Certified Arborist prior to construction.
 - (c) Damage to roots in this area may result in penalties or fines.
- (3) The County's Landscape Architect or his designee may reduce the limits of the TPZ to allow authorized construction to occur.
- (4) No reduction of the TPZ or removal of barricades may occur without prior written authorization from the County's Landscape Architect.
- (5) The TPZ may be temporarily reduced in size and/or barricades may be temporarily removed to allow for minor construction or maintenance within the TPZ. Barricades shall be reinstalled as soon as work within the TPZ is completed.
- (6) The TPZ shall not be reduced to any point within the CRZ.

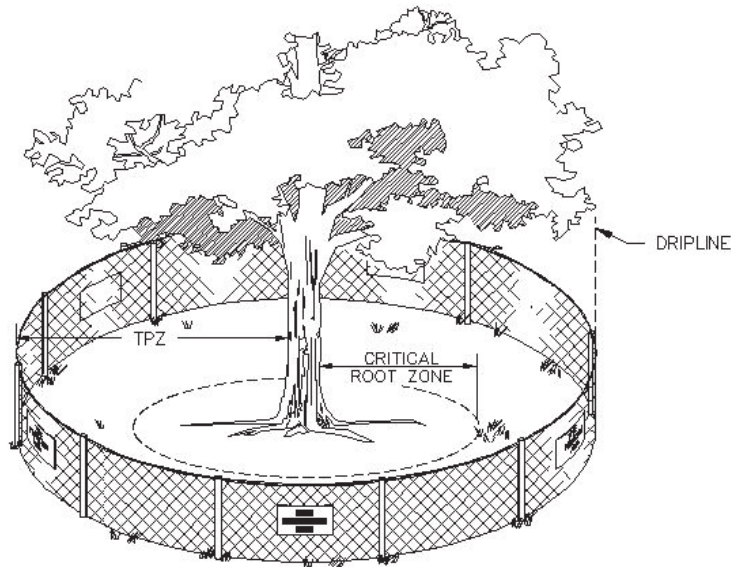


Figure 6.7-1 Tree Protection Zones

- C. Tree protection barricades shall be:
 - (1) No less than four feet in height.
 - (2) Constructed of rigid material capable of surviving for the duration of the construction.
 - (3) Posted with highly visible signs placed on the tree protection barricades at each quadrant of single protected trees and along driplines of groups of trees being protected at 50-foot intervals or less. Signs shall include the words "Tree Protection Zone."
- D. Pre-construction tree protection.
 - (1) The owner shall be responsible for insuring that all possible measures are taken to avoid damage to trees not approved for removal.
 - (2) Prior to any clearing, grubbing, or any construction, tree protection barricades shall be erected around all trees, or groups of trees, within the construction area which are to be preserved.
- E. Tree protection shall continue during the course of construction. The following requirements shall be conditions of tree removal permits, all permits for construction in public rights-of-way, and all development permits issued under and pursuant to this Code:
 - (1) The cleaning of construction equipment or material or the disposal of waste materials including but not limited to, paint, oil, solvents, asphalt, concrete, and mortar within the TPZ of any tree which is being protected is not allowed.
 - (2) The movement of equipment or the storage of equipment, materials, debris, or fill within the TPZ of any tree which is being protected is not allowed.
 - (3) The contractor shall inspect all tree protection barricades and signs on a weekly basis during the course of construction. Any barricade or sign which has been damaged or is missing shall be replaced immediately.
 - (4) If any tree which has not been approved to be removed is destroyed, or receives major damage during construction, with the exception of natural events, so as to place its long term survival in question, the

tree(s) must be replaced at an inch-to-inch basis of the total (combined) DBH of the tree(s) so destroyed or damaged. The replacement tree(s) shall be of comparable species of the destroyed or damaged tree(s) with a minimum replacement size of 3.5-inch caliper. The County reserves the right to establish a replacement value for such trees and payment into the Tree Mitigation Fund may be authorized by the County's Landscape Architect.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 6.7.4. Shade trees.

Shade trees are required for all developments excluding residential developments.

- A. The post-development ratio of shade trees to the area of the site shall be a minimum of one shade tree per 3,000 square feet.
- B. Shade trees may include:
 - (1) Protected and preserved trees which have a favorable assessment, and/or
 - (2) Trees as required for buffers, parking areas, vehicle use areas, and building areas, and/or
 - (3) Trees as required as replacement trees.
- C. When mature trees with a full canopy of 30-foot radius or larger, with a favorable assessment, are preserved on the project site, a credit of two shade trees may be used towards the overall shade tree requirement.
- D. Required shade trees shall meet the minimum size requirements in Section 6.8.10.C.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 6.7.5. Tree trimming and tree removal permit.

- A. For tree removals not associated with any development as outlined in this division, refer to Section 2.22.4. For all other tree removal applications, the approved development plans shall serve as the tree removal permit.
- B. A tree removal permit shall be required for the removal of any tree with a DBH of 10 inches or larger, except for exempt activities as outlined in Section 6.7.2. A tree removal permit shall be obtained from the County's Landscape Architect or his designee prior to any site clearing, grading, or for any construction which requires a permit from the Marion County Building Department. The failure to obtain any such permit when required shall be a violation of this Code, subject to penalties provided herein.
- C. A tree removal permit shall be obtained by any public utility undertaking construction activities that require tree removal. Prior to trimming or removal of any trees in the public right of way, related to the utilities operations and not associated with road construction or road maintenance activities, the contactor shall:
 - 1. Contact the County's Landscape Architect and providing a map of where all vegetation management practices and tree trimming or removal will be performed.
 - 2. Conduct an on-site review of the vegetation management and/or tree removal to review potential impacts.
 - 3. Consideration will be given to the removal of trees and palms which have been topped or have been "directionally pruned" as to where recovery of the trees or palms is unlikely.

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4. After removal of trees all stumps must be ground to a depth of no less than two inches below grade and remove grinding refuse.
 5. Stabilize all disturbed areas in an acceptable manner
- D. Tree removal permits shall expire within one year or upon expiration of the building permit, whichever comes first. Trees authorized to be removed may not be removed after the permit expires unless a new permit is obtained pursuant to this division.

(Ord. No. 13-20, § 2, 7-11-2013; Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 6.7.6. Submittal requirements.

The following requirements shall apply to the application for tree removal permits and are in addition to the Minimum Plan Requirements:

- A. Depending on the density of existing trees, the applicant may provide a separate "Tree Removal and Preservation Plan." For development sites with lower density of trees, such information may be indicated on the Site Plan or the Landscape Plan. Either method used shall indicate the location of all trees, with a DBH of 10 inches and larger, to be removed and trees to be preserved. Preserved trees and replacement trees shall be indicated on the Landscape Plan to demonstrate the final appearance of the site.
- B. Tree calculations shall include:
 - (1) The total numbers of existing trees within the site and the respective DBH of each tree;
 - (2) The pre-development ratio of native tree inches-per-acre;
 - (3) The total DBH inches of native trees to be removed; and
 - (4) The total DBH inches of native trees to be preserved.
- C. A tree protection detail which graphically indicates the requirements of tree protection as required by this division.
- D. List general prohibitions on the plan as stated in Section 6.7.3.E.
- E. Indication of all TPZs on the site plan, grading plan and on which ever plan is used to demonstrate tree preservation and replacement.
- F. Fees required for review and issuance of tree removal permits, inspections, and restoration plans shall be established by the Board, by resolution. Tree removal permit application fees for projects associated with any development (excluding stand alone permits) shall be included in the overall plan review and application fees available at the Office of the County Engineer.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 6.7.7. Review and approval procedures.

- A. During review of tree preservation submittals, the County's Landscape Architect or his designee may determine that modifications of the proposed plans or calculations are necessary. Conditions that may require changes include, but are not limited to, the following:
 - (1) Preserving any tree due to their age, size, rarity, uniqueness, historic value, status as a specimen tree, or other outstanding quality.

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- (2) Proposed grading or clearing activities do not follow the requirements of this division.
 - (3) Proposed habitat destruction which conflicts with the requirements in Division 6.6.
 - B. The applicant will be asked to revise and update the tree preservation information according to review comments.
 - C. After approval, the County's Landscape Architect or his designee shall issue a tree removal permit if such tree removal is in accordance with all provisions of this Code. The approved development plans shall serve as the Tree Removal Permit.
- (Ord. No. 13-20, § 2, 7-11-2013)

Sec. 6.7.8. Protected tree replacement requirements.

All trees not permitted for removal must be protected and maintained. For those protected trees permitted for removal, trees shall be replaced in accordance with the minimum standards set forth below.

- A. Replacement is not required where the property owner retains existing trees on the site which total an average of 100 inches DBH per acre. If replacement is necessary, a minimum of 100 inches DBH per acre on the average shall be achieved.
- B. If the pre-development number of inches is less than 100 DBH per acre on the average, the property owner shall replace trees to equal the pre-development number of DBH inches.
- C. Replacement of trees less than 30 inches DBH and permitted for removal shall be as described below:
 - (1) Existing trees measuring 10 inches DBH to 19 inches DBH shall be replaced with a ratio of one-inch replacement per two inches removed and the minimum replacement tree size is 3.5-inch caliper.
 - (2) Existing trees measuring 20 inches DBH to 29 inches DBH shall be replaced with a ratio of 1.5 inches replacement per two inches removed and the minimum replacement tree size is 3.5-inch caliper.
- D. Replacement of trees 30 inches DBH or greater and permitted for removal shall be as described below:
 - (1) All trees which receive a favorable assessment may be approved for removal by the County's Landscape Architect or his designee under the following circumstances:
 - (a) The tree materially interferes with the proposed location, service or function of the utility lines or services, or rights-of-way, and
 - (b) The tree cannot be preserved through re-design of the infrastructure.
 - (2) All trees which receive a favorable assessment shall be replaced inch-for-inch and the minimum replacement tree size is 4.0-inch caliper.
 - (3) All trees which receive an unfavorable assessment shall be replaced with a ratio of 1.5 inches replacement per two inches removed and the minimum replacement tree size is 3.5-inch caliper.
- E. Trees removed pursuant to a permit for construction in rights-of-way, approved by the County, State or Federal authority, shall not be required to replace the DBH of trees removed if such authority demonstrates that such trees conflict with proposed utilities, drainage, or roadway construction.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 6.7.9. Replacement trees.

- A. Replacement trees are a part of the comprehensive tree program and shall work in combination with required shade trees, buffer trees, and any other required landscaping.
- B. All trees and/or palms used for tree replacement purposes shall be nursery grown and Florida No. 1 quality or better, as established by Grades and Standards for Nursery Plants, Department of Agriculture, State of Florida, as amended.
- C. Replacement trees shall meet the minimum tree requirements established in Section 6.7.8.
- D. Replacement trees shall be Florida native species compatible to the site.
- E. Palms may only be used to replace palms that are permitted for removal. Replacement palms shall have a clear trunk height of 10-foot minimum. The use of palms shall work with the required palm ratio as required in Section 6.8.10.C.
- F. For trees removed pursuant to a tree removal permit, required replacement trees shall be located within the parcel boundaries shown on the site plan. If space constraints are such that the replacement trees cannot be located within the parcel boundaries using sound horticultural and design principles, then the replacement trees may be located on public property at the County's discretion. The public property location shall be specifically designated by the County and such replacement trees shall be donated to the County. The County will be responsible for maintenance of donated trees on public property.
- G. As an alternative to replacement, the property owner may comply with the requirement of Section 6.7.8 by designating existing trees on site which are native tree species and less than 10 inches DBH as conservation trees, provided that the property owner takes steps to designate and protect such conservation trees.
- H. A property owner designating conservation trees shall record in the public records of Marion County, a notice to subsequent property owners that the site contains conservation trees, subject to maintenance requirements, with reference to the development plan on file with the County designating such trees. A copy of such recorded notice on a form provided by the County shall be supplied to the Planning/Zoning Manager or his designee prior to the issuance of a Certificate of Occupancy.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 6.7.10. Tree mitigation fund.

- A. The Tree Mitigation Fund has been created in the general trust fund of Marion County for the purpose of accepting and disbursing the contributions made to the Board as part of the tree replacement monies deposited for tree replacement purposes. This fund shall be used to enhance tree replacement in Marion County.
- B. An application to pay in lieu of installing any required replacement trees is made through the County's Landscape Architect. The "pay in lieu" option shall only be used for replacement trees and for no other landscape or tree planting requirement as stated in this Code.
- C. At the County's discretion, in lieu of installing replacement trees, a permittee may pay a fee into the Tree Mitigation Fund at a per-tree cost. The amount of such fee shall be determined on a case by case basis through the public solicitation for bids and the amount shall be based on:
 - (1) The wholesale cost of material
 - (2) Cost of labor for installation
 - (3) Cost of maintenance for two years

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- D. Payment into the Tree Mitigation Fund shall be recommended by the County's Landscape Architect and approved by the Board prior to issuance of the tree removal permit.
 - E. Tree mitigation funds shall be used by the County for the installation, establishment, and maintenance of trees on public property within Marion County.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 6.7.11. Tree maintenance and management.

- A. Unless otherwise permitted by this division, no person shall cause or authorize:
 - (1) The removal of any protected tree without first obtaining a tree removal permit as required by this Code.
 - (2) Tree abuse which includes:
 - (a) Hatracking a tree; or
 - (b) Destroying the natural habit of tree growth; or
 - (c) Pruning which leaves stubs or results in a flush cut; or splitting of limb ends; or
 - (d) Removing tree bark to the extent that if a line is drawn at any height around the circumference of the tree, over $\frac{1}{3}$ of the length of the line falls on portions of the tree where bark no longer remains; or
 - (e) Using climbing spikes, nails, or hooks, except for purposes of total tree removal or as specifically permitted by standards set by the ANSI, as updated; or
 - (f) Pruning that does not conform to standards or recommendations set by the ANSI, as updated; or
 - (g) Pruning of live palm fronds which initiate above the horizontal plane; or
 - (h) Overlifting a tree; or
 - (i) Shaping a tree.
 - (3) Any encroachments, excavations, or change the natural grade within the Tree Protection Zone (TPZ), as defined herein, of a tree unless it can be demonstrated to the County's Landscape Architect prior to commencement of said activity, that the activity will not negatively impact any tree.
 - (4) Land clearing or the operation of heavy equipment in the vicinity of a protected tree without placing and maintaining a protective barrier around the TPZ.
 - (5) The storage or use of materials or equipment within the TPZ of any protected tree, or attachments, other than those of a protective and non-damaging nature, to any tree.
 - (6) Land clearing, including the removal of understory, without first obtaining authorization as herein provided.
- B. The following requirements shall be conditions of any tree removal permit which includes a requirement for replacement trees:
 - (1) Replacement trees required in conjunction with a commercial or industrial development or subdivision approval shall be considered required improvements and shall be subject to certification of satisfactory completion contained in this Code.
 - (2) All replacement trees shall be maintained in a living, healthy condition for a period of two years following final inspection and approval, or else be replaced, by the owner, successor, or assignee. No

replacement shall be required beyond such two-year period. After the two-year period, the owner of record shall be responsible for maintaining the replacement trees in a healthy condition.

- (3) The permittee or the property owner shall record in the public records of Marion County, appropriate notice to subsequent owners of the maintenance period or replacement requirement for replacement trees with reference to the development plans on file with the County identifying such trees. A copy of such recorded notice shall be supplied to the Planning/Zoning Manager or his designee prior to the issuance of a Certificate of Occupancy.
- (4) For residential and mixed use developments where tree preservation and replacement requirements are approved with any application, the developer shall require future property owners of lots where protected trees have been preserved to continue to protect and preserve such trees. Such requirements shall run with the parcel until removal of the tree(s) is required due to age, declining health, or for the protection of public safety.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 6.7.12. Tree inspections.

The following tree preservation and/or replacement inspections shall be required to ensure compliance with this division and with the requirements of permits issued hereunder. No Certificate of Occupancy or Certificate of Completion, as appropriate, may be issued for any development involving the removal of trees requiring a permit until all of the following inspections have been completed and approval is granted:

- A. A preliminary inspection shall be conducted by the County's Landscape Architect or his designee to confirm that the permittee has marked trees permitted to be removed and has installed tree protection barricades around trees, or groups of trees, to be preserved prior to any clearing, grubbing, or construction. Any deficiencies noted during this inspection shall be cause to withhold approval until they are corrected by the permittee and reinspected. Approval, after preliminary inspection, shall be noted by the County's Landscape Architect or his designee on the permit and shall constitute notice to proceed with tree removal.
- B. A final inspection shall be conducted by the County's Landscape Architect or his designee after completion of tree removal and replacement in accordance with the approved plans. Approval, after final inspection, shall be noted by the County's Landscape Architect or his designee on the permit and shall constitute notice of commencement of the required maintenance period of replacement trees if replacement is required.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 6.7.13. Violation and enforcement.

It shall be a violation of this Code to fail to obtain a tree removal permit when required, to fail to comply with any condition of any tree removal permit issued, or to violate any provision of this division. When such violations occur, the following sanctions apply:

- A. If unauthorized tree removal or site grading occurs, the County's Landscape Architect or his designee may issue a stop work order for the affected project area of such unauthorized tree removal and all related site work will cease until a restoration plan is prepared by the owner, developer, contractor, or agent, and then submitted to, and approved by the County's Landscape Architect or his designee.
- B. If a restoration plan is not presented within 30 days, the owner, developer, contractor, or agent will be cited by the County's Landscape Architect, or designee, and referred to the Code Enforcement Board.

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- C. A Certificate of Occupancy will not be granted until all trees and vegetation shown upon the approved restoration plan have been installed and all site grades restored.
 - D. All trees and vegetation shown upon the approved site restoration plan must be installed on the property and the site grade restored even if project termination occurs before completion of the project. Failure to complete the approved restoration plan is a violation of this Code and the owner, developer, contractor, or agent will be cited by the County's Landscape Architect or his designee and referred to the Code Enforcement Board.
 - E. In addition to all other remedies provided herein, the Landscape Architect may seek injunctive relief or the imposition of fines and penalties for any violation of this division.

(Ord. No. 13-20, § 2, 7-11-2013)