

## ***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;
- (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.
- 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 or zoning changes, or development plans, shall be accepted within five years 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 or duplex dwelling units.
- F. The removal of trees associated with the County's construction, rehabilitation, or routine maintenance of roads, utilities, and drainage systems within public rights-of-way or easements.

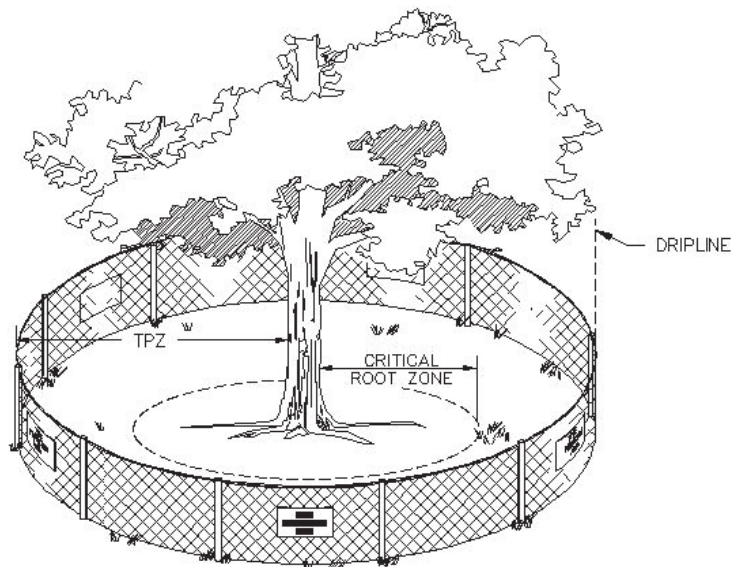
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- G. The removal of trees associated with the rehabilitation or routine maintenance of roads and drainage systems within private rights-of-way or easements.
  - H. Tree removal or trimming for the construction of firebreaks and firelines by the County or agencies having local jurisdiction and surveying associated with this construction.
  - 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. The removal of trees on residential property that pose an unacceptable risk to persons or property as per Florida Statute 163.045 "Tree pruning, trimming, or removal on residential property."
  - K. Transplanting of any size tree.
  - L. Removal of trees required by a development plan which has been fully approved by the County.
  - M. Removal of exotic or nuisance tree or plant 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, General.**

- A. Design for the protection of trees.
  - (1) Every reasonable effort should be made to minimize tree removal. Site development shall consider tree preservation by balancing the requirements of site and utility design with preserving existing trees in an integrated manner across the site.
  - (2) The preservation of existing trees and vegetation for use as perimeter land use buffers shall be considered early in the site design process and implemented to provide required buffers while preserving habitat and lowering the cost of development.
  - (3) In all cases, a post-development ratio of shade trees to the area of the site must be provided as required in Section 6.7.4.
  - (4) All regulated trees shall be considered Protected Trees.
  - (5) An evaluation by a Certified Arborist or Landscape Architect shall be made to determine if existing Regulated Trees, or groups of existing Regulated Trees, are suitable candidates for preservation before final site plans are developed. If the site proposes preserving existing trees, or if the site contains Specimen Trees, this evaluation shall be submitted with the development application. The evaluation shall be used to guide decisions about tree preservation, tree protection, and tree removal and shall include:
    - (a) Identification of species of tree(s) proposed for preservation;
    - (b) Evaluation of the condition of the tree(s) to be preserved based on the species, age, observations of external or external signs of disease or impacts, and possible longevity based on species type, site conditions, or location.
    - (c) Assessment of the size (DBH and canopy) of the tree(s) to be preserved;
    - (d) Identification of Specimen Trees. Any Specimen Tree proposed for removal for any reason requires field verification and approval by the County Landscape Architect.
    - (e) Illustration of TPZ and CRZ areas for trees to be preserved.

- B. Tree protection measures shall be denoted on tree removal permit or site development review plans by illustrating and dimensioning the following:
- (1) Extents of the Tree Protection Zone (TPZ) for trees proposed for preservation. For tree protection requirements, the TPZ shall be indicated on the grading and utility construction sheets as well as the Tree Removal and Preservation Plan or Landscape Plan as required in Section 6.7.6.E.
  - (2) Extents of the Tree Critical Root Zone (CRZ) For trees proposed for preservation.
    - (a) No excavation, construction, or otherwise disruption of the root zone is allowed within the CRZ.
    - (b) The CRZ is established by definition, or based on an on-site review and assessment by either a Landscape Architect or a Certified Arborist prior to construction.
  - (3) No reduction of the TPZ or removal of barricades may occur without prior written authorization from the County's Landscape Architect.
  - (4) 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, as approved by the County's Landscape Architect prior to construction activities. Barricades shall be reinstalled as soon as work within the TPZ is completed.



**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.

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- (1) The owner shall be responsible for ensuring 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.
  - (3) The County Landscape Architect shall be notified and a pre-clearing/grubbing/grading on-site review of all required tree protection barricades will be conducted.
- E. Tree protection shall continue throughout construction. The following requirements shall be conditions of tree removal permits, all permits for private construction in public rights-of-way, and all development permits issued under and pursuant to this Code:
- (1) No cleaning of construction equipment or material or the disposal of waste materials including but not limited to, paint, oil, solvents, asphalt, concrete, and mortar shall be permissible within the TPZ of any tree which is being protected.
  - (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 throughout 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, Minimum Requirements**

- 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 for all developments excluding single-family or duplex residential developments
- B. Shade trees may include:
  - (1) Specimen Trees and/or;
  - (2) Protected and preserved trees with a favorable assessment and/or;
  - (2) Trees as required for buffers, parking areas, vehicle use areas, screening, and building areas, and/or;
  - (3) Trees as required as tree mitigation replacement trees.
- C. Priority shall be given to preserve Specimen Trees and those existing trees that are the highest rated per the tree assessment.

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- D. Credits towards the Shade Tree requirement shall be given for existing Regulated Trees that are preserved by the development. Preserved trees used for Shade Tree credits shall be subject to the approval of the County Landscape Architect. Tree credits shall be given for preserved Regulated Trees as follows:

Preserved Regulated Tree (DBH)	Number of Shade Trees Credited
10" – 19"	One
20" – 29"	Two
30" – 35"	Three
Specimen Trees	Five

(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 Regulated Tree 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 or private utility or communications company 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.
  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)

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### **Sec. 6.7.6. Submittal requirements.**

The following requirements shall apply to the application for tree removal permits and site development review plans 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 Regulated Trees 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 Regulated Trees within the site and the respective DBH of each tree; and
  - (2) The pre-development ratio of Regulated Tree inches-per-acre; and
  - (3) The total DBH inches of Regulated Trees to be removed; and
  - (4) The total DBH inches of Regulated Trees to be preserved; and
  - (5) The native status of trees to be preserved.
- C. A tree protection detail which graphically indicates the requirements of tree protection as required by this division.
- D. Listing general prohibitions 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) Required preservation of any Specimen Trees
  - (2) Proposed grading or clearing activities Within the TPZ and/or
  - (3) Proposed habitat destruction which conflicts with the requirements in Division 6.6.
- B. The applicant will be required to revise and update the tree preservation information according to review comments.

(Ord. No. 13-20, § 2, 7-11-2013)

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### **Sec. 6.7.8. Protected tree replacement requirements.**

Regulated Trees that are proposed for removal 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.
- 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. Removal of Regulated Trees less than 36 inches DBH and permitted for removal is permissible if the following replacement requirements are met:
  - (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.
  - (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.
  - (3) Existing trees measuring 30 inches DBH to 35 inches DBH shall be replaced with a ratio of 2 inches replacement per 2 inches removed.
  - (3) Replacement trees must be a minimum of 3.5 inch caliper, unless otherwise approved by the County Landscape Architect.
- D. If the pre-development number of inches of Regulated Trees is greater than 100 DBH per acre, the property owner shall replace trees equal to 100 DBH per acre
- E. Removal of Specimen Trees may only be permitted following review and approval by the County's Landscape Architect and as per the following circumstances:
  - (a) The Specimen Tree does not have a favorable assessment per an arborist's assessment and confirmed during a pre-development on site review meeting with the County Landscape Architect; and/or
  - (b) The Specimen Tree materially interferes with the proposed location, service or function of the project site plan and the Specimen Tree cannot be preserved through a redesign of the site infrastructure.
  - (c) If the County Landscape Architect approves removal, then Specimen Trees shall be replaced at a ratio of 3.0 inches replacement for 1 inch removed and the minimum replacement tree size is 4.0-inch caliper.
- F. Existing trees that have experienced tree abuse as part of landscape maintenance or site development activities that cause critical impact as determined by the County Landscape Architect will require mitigation. Tree abuse may include:
  - (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

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- (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; or
  - (j) Removing more than 25% of the tree's canopy.
- G. Existing trees that have had their CRZ or TPZ impacted by activities prohibited above will require tree mitigation. Replacement trees for these impacted trees will be determined on a case-by-case basis by the County Landscape Architect.
  - H. Regardless of size, any Regulated Tree proposed for removal that receives an unfavorable assessment at the predesign on site review 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.
  - I. If replanting replacement trees on site is not practicable per best landscape design practices, then a fee in lieu of planting may be provided as per Section 6.7.10.
  - J. Trees removed pursuant to a permit for construction in rights-of-way, approved by the County, State or Federal authority, are exempt from protected tree removal requirements 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 comply with the required palm ratio as required in Section 6.8.10.C.
- F. For trees removed pursuant to a tree removal permit or development plan approval, required replacement trees shall be located within the parcel boundaries and 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 and as determined at the time of the permit or site development review. 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 planting and maintenance of donated trees on public property.
- G. The preservation of existing Regulated Trees will count towards satisfying the required Replacement Tree amount at the following ratios:



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- (1) Preserved trees measuring 10 inches DBH to 19 inches DBH shall count towards the replacement tree criteria at a ratio of one inch of replacement value per one-inch preserved.
  - (2) Preserved trees measuring 20 inches DBH to 29 inches DBH shall count towards the replacement tree criteria at a ratio of three inches of replacement per one inch preserved.
  - (3) Preserved trees measuring 30 inches DBH to 35 inches DBH shall count towards the replacement tree criteria at a ratio of four inches of replacement per one inch preserved.
  - (3) Specimen Trees preserved shall count towards the replacement criteria at a ratio of eight inches of replacement per one inch preserved.
- H. 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. If the owner chooses to utilize this provision, then the location, number, size, and type (genus and species) of those trees or groups of trees requested as conservation trees shall be included in the tree survey.
- I. 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 and to enhance the Marion County Parks system.
- B. An application to pay in lieu of installing any required tree mitigation replacement trees is made through the County's Landscape Architect. The "pay in lieu" option shall only be used for tree mitigation replacement trees.
- C. At the County's discretion, in lieu of installing replacement trees, a permittee may pay a fee into the Tree Mitigation Fund at the tree replacement fee as listed in the County's annual fee list.
- D. Payment into the Tree Mitigation Fund shall be approved by the County's Landscape Architect and approved by the Board prior to issuance of the tree removal permit or development approval.
- E. The County Landscape Architect shall provide an annual report to the Board describing the available funds, annual expenditures, and a narrative describing the disbursement and utilization of tree mitigation funds.

(Ord. No. 13-20, § 2, 7-11-2013)

#### **Sec. 6.7.11. Tree maintenance and management.**

- A. The following requirements shall be conditions of any tree removal permit which includes a requirement for replacement trees:

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- (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, or else be replaced, by the owner, successor, or assignee.
  - (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 County prior to the issuance of a Certificate of Occupancy.
  - (4) For developments where tree preservation and replacement requirements are may be fulfilled by future or subsequent developers or builders, 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 replacement 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 preconstruction inspection shall be conducted by the County's Landscape Architect or his designee prior to any demolition or site construction in order 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. It is the Owner's responsibility to notify the County Landscape Architect of completion of tree removal activities. 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 project and all related site work will cease until a restoration plan

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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.
- 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 County 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)