

Sec. VII-309. - Administration and purpose.

- (a) The administration of article VII, division 3.1, tree protection, shall be by the director of development services.
- (b) The purpose of these regulations is to promote a healthy, diverse, and resilient tree canopy while allowing for reasonable flexibility in fulfilling the following objectives:
 - (1) Encouraging the use of native and Florida-friendly trees.
 - (2) Facilitating the elimination of invasive species of trees that threaten the native ecosystem.
 - (3) Encouraging the use of trees suited to local growing conditions.
 - (4) Facilitating the placement of the right tree in the right location through careful consideration of the appropriate tree species for the specific growing space.
 - (5) Enhancing the overall appearance of the City of Sarasota.
 - (6) Improving air quality through the retention and installation of trees.
 - (7) Conserving water by protecting established and native landscaping.
 - (8) Increasing property values through the use of trees as a capital asset.
 - (9) Providing a reasonable mechanism for the removal of trees and mitigation therefor.
 - (10) Encouraging the planting and protection of shade trees benefiting pedestrians and allowing for a more walkable urban environment.

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 09-4838, § 2(att. 1), 2-17-09; Ord. No. 21-5369, § 1, 5-2-22)

Sec. VII-310. - Grand trees.

- (a) Grand tree: A tree is considered a grand tree if it is determined to have a good or moderate suitability rating by a city arborist, based on the definitions found under the suitability ratings below and is either a Live Oak (*Quercus virginia*) or Sand Live Oak (*Quercus geminata*) that has a DBH measurement of 24 inches or greater; or is a Slash Pine (*Pinus elliotii*), Longleaf Pine (*Pinus palustris*) or Southern Red Cedar (*Juniperus virginiana*) that has a DBH measurement of 20 inches or greater. A grand tree shall have the same meaning, and force and effect of law, as a specimen or historical tree under state law (including F.S. § 163.3209, as may be amended from time to time).
 - (1) Suitability ratings.
 - a. *Good*: Trees in this category are in good health and structural stability and have potential for longevity at the site.
 - b. *Moderate*: Trees in this category are in fair health and/or have structural defects that may be mitigated with treatment. These trees may require more intense management and monitoring, and may have shorter life-spans than those in the "good" category.
 - c. *Poor*: Trees in this category are in poor health or have significant defects in structure that cannot be mitigated with treatment. These trees can be expected to decline regardless of management.
 - (2) The final decision as to the health of the tree is to be determined by a city arborist.
- (b) The removal of a grand tree located upon public or private property is hereby prohibited unless exempted in accordance with subparagraph (c) or (f) below.
- (c) The director of development services may exempt a grand tree from subsection (b) above upon making one or more of the following findings:
 - (1) A grand tree is in an advanced state of decline, as determined by a city-approved certified arborist or state-registered landscape architect. Unless the grand tree is obviously dead or diseased, the city approved certified arborist report must include a resistograph test or similar test which is approved by the city arborist for use in determining if the grand tree is in such an advanced state of decline as to justify removal of said grand tree.
 - (2) A grand tree is located where an infrastructure improvement or structure which complies with all applicable codes is to be

located and the applicant has made all reasonable efforts to relocate the infrastructure improvement or structure to preserve the grand tree. Applicant shall provide alternative design plans with accompanying narrative explaining why alternate designs do not work.

- (3) In order to preserve the grand tree, it would be necessary for at least 25 percent of the parking area or buildable area to be rendered unusable or unbuildable. Applicant must show hatched diagram illustrating loss of parking area or buildable area to qualify for this exemption.
 - (4) An imminent safety hazard exists which can be mitigated by removal of the grand tree.
- (d) In determining whether an applicant has made a reasonable effort to relocate the infrastructure, improvements, or structure to preserve trees, the director of development services shall consider whether an applicant has considered design alternatives or has requested a variance from the terms of the zoning code (see section IV-606(f) of this Code). In making such a determination, the director of development services may consult with an independent state-registered landscape architect in regard to the reasonableness of any effort of the applicant to preserve trees. The cost of such a consultation shall be borne by the applicant. The director of development services may require payment of an estimated fee for the consultation in advance by the applicant.
- (e) Any applicant who obtains a tree removal permit for a grand tree shall post said tree removal permit in a location visible from the right-of-way at the front of the property permitted for the tree removal no less than five working days prior to removal of the grand tree unless the director has determined that the grand tree is creating an imminent safety hazard. Additionally, said applicant shall identify the tree(s) to be removed with an orange plastic ribbon tied around the trunk of said tree commencing at least five working days prior to removal of the grand tree unless the director has determined that the grand tree is creating an imminent safety hazard to pedestrians, bicycles, vehicular traffic or public utility infrastructure.
- (f) Notwithstanding the above, the City of Sarasota recognizes and adheres to any exception to these regulations found under state law (including, but not limited to, F.S. § 163.045, as may be amended from time to time).

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 09-4838, § 2(att. 1), 2-17-09; Ord. No. 16-5173, § 4, 7-5-16; Ord. No. 21-5369, § 1, 5-2-22)

Sec. VII-311. - Prohibited trees.

The following species of trees are prohibited: *Melaleuca quinquenervia* (*Punk tree*), *Schinus terebinthifolius* (*Brazilian Pepper*), *Casuarina* spp (*Australian Pine*), *Cupaniopsis anacardioides* (*Carrotwood*), *Melia azedarach* (*Chinaberry*), *Sapium sebiferum* (*Chinese Tallow*), and *Ficus microcarpa* (*Cuban Laurel*). The sale, purchase or planting of prohibited trees as defined in this Code for the purposes of planting upon private or public property shall be prohibited, unless a permit has been issued by the state department of environmental protection in accordance with F.S. § 369.251. A copy of the state permit shall be submitted to the director of neighborhood and development services prior to commencing any sale, purchase or planting of a prohibited tree. Established prohibited trees are not required to be removed by this section.

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 21-5369, § 1, 5-2-22)

Sec. VII-312. - Protection of trees during development.

- (a) During the development of property, any person owning a legal interest in the real property under construction, the contractor who has been issued a tree removal permit and the contractor who has been issued a building permit shall be equally responsible for the erection of any and all barriers or protective guards necessary to protect any existing or installed trees from damage during construction in accordance with the tree protective barrier requirements and specifications detailed in the illustration and text labeled "tree protective barrier." (The tree protective barrier description included as exhibit 9 in section VII-308 is hereby deleted and replaced with the three (3) sketches labeled Tree Protective Barrier attached hereto and incorporated by reference herein as exhibit A.) The property owners and contractors described above shall be subject to a \$250.00 initial penalty and a \$100.00 daily penalty if the tree protection barriers are not in place around all protected trees and grand trees prior to and during any land clearing activity, demolition activity, construction staging activity or construction activity. Additionally, the work may be stopped by the building official, city arborist or their designees until appropriate tree protection barriers are in place.
- (1) Barricades shall be installed a minimum of ten feet from a protected tree or at the designated protected root zone as shown on

the approved site plan. The city arborist may allow minor modifications to this standard based upon specific site configuration issues.

- (2) Barricades shall be installed a minimum of 20 feet from a grand tree or at the designated protected root zone as shown on the approved site plan and shall be chain link a minimum of six feet in height. The city arborist may allow minor modifications to this standard based upon specific site configuration issues.
 - (3) No changes to the predevelopment conditions within the approved protected root zone are allowed during the construction process, but a barricade may be temporarily relocated to accommodate a construction issue if advance notice is provided to the city arborist.
- (b) Prior to and during land clearing, including grubbing, all trees to be removed shall be clearly marked with ribbons at 36 inches minimum above grade. All trees to be removed shall be identified by an orange plastic ribbon tied around the trunk of said tree prior to the onsite inspection of the city's arborist. The city shall provide the orange ribbon to the applicant at the time of application for the tree removal permit. If the orange ribbon is not located upon any tree at the time of inspection by the city arborist, the inspection will be rejected and a re-inspection fee shall be charged to the applicant.
 - (c) Any excess soil, additional fill, vehicles, equipment, liquid waste, solvents or construction debris shall not be placed during construction within the protective barrier area surrounding a tree. The tree or its root system surrounded by a protective barrier shall not be otherwise damaged.
 - (d) Any attachments or wires other than those of a protective or of a non-damaging nature shall not be attached to any trees.
 - (e) Underground utility lines shall be routed around existing trees or otherwise placed by tunneling under the tree at a minimum depth of 30 inches by hand digging. Any roots affected must be cut according to guidelines set forth in this division. No roots over three inches in diameter shall be cut. Fences or walls shall not be installed where they interfere with the root system of existing trees. Footings for walls shall end at the point where large roots (over three inches in diameter) are encountered. Post holes and trenches located close to trees shall be adjusted to avoid damage to major roots.
 - (1) All roots must be severed clean at the protected root zone of protected and grand trees to prevent root damage.
 - (2) Root pruning must be performed with an approved cutting type of equipment, such as a chainsaw, hand saw or other cutting equipment.
 - (3) Root pruning must be performed prior to any construction activities and inspected by the city arborist before requesting building permit inspections.
 - (4) This section shall not apply to utility line maintenance or replacement.
 - (f) Any person owning a legal interest in the real property under construction, the contractor who has been issued a tree removal permit and the contractor who has been issued a building permit shall be equally responsible for the maintenance of all trees planted or protected by this division while such property is under construction. This protection includes removal or unnecessary damage to trees or roots of trees on abutting properties. All transplanted trees on the site shall be maintained using acceptable horticultural practices. Any persons owning a legal interest in real property for which a tree removal permit has been issued shall be responsible for replacing any newly planted or transplanted trees on such property used to meet minimum requirements, as outlined in this division, which die or become so unhealthy so as to lose their aesthetic and functional requirement after the construction on such property has been completed.
 - (g) All original or replanted trees required as tree mitigation shall survive for at least one year from the date of final inspection for the tree permit. Any such tree that does not survive shall be replanted at the property owner's expense. Such replanted trees shall also be required to survive for a one-year period from the date of replanting. All transplanted trees on the site shall be maintained using acceptable horticultural practices. Any person owning a legal interest in real property for which a tree removal permit has been issued shall be responsible for replacing any newly planted or transplanted trees on such property used to meet minimum requirements as outlined in this division which die or become so unhealthy so as to lose their aesthetic and functional requirement after the construction on such property has been completed.
 - (h) The provisions of this section shall not apply when the director of development services has determined that the protected tree or

grand tree is creating an imminent safety hazard.

- (i) Any person owning a legal interest in the real property under construction, the contractor who has been issued a tree removal permit, and the contractor who has been issued a building permit, shall all be equally responsible for compliance with each and every requirement of this section.

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 16-5173, § 5, 7-5-16)

Sec. VII-313. - Trees abutting public property.

The owner or occupant of real property shall not permit trees located thereon to extend over any public sidewalk or other public right-of-way unless the trees or trees are kept trimmed from the sidewalk to a height of ten feet and to a height of 14½ feet over any street or public right-of-way.

(Ord. No. 02-4401, § 3, 8-4-03)

Sec. VII-314. - Trees within utility easements.

- (a) *Property owner obligations:* Trees planted or preserved within a utility easement by an abutting property owner shall not interfere with power lines, cable television lines, sewer pipes, water pipes or any other existing or proposed overhead or underground utility service. The location of underground utility lines shall be determined prior to planting within an easement by the property owner.
- (b) *Utilities—Obligations:* Utility companies, electric suppliers and governmental agencies constructing or maintaining easements for water, sewer, electricity, gas, drainage, telephone or television transmission shall be exempt from the provisions of section VII-316 requiring a tree removal permit if the applicable company, supplier or agency has executed an agreement reviewed by the planning board and approved by the city commission (hereinafter "tree protection agreement" a/k/a "TPA"). The TPA at a minimum shall contain the following provisions:
 - (1) Recognizes the need to minimize the cutting or trimming of grand trees.
 - (2) Establishes, to the extent feasible, design guidelines for construction and maintenance which identifies the saving of grand trees as a factor to be considered in the design process.
 - (3) Provides for the protection of trees during construction or easement maintenance activity in accordance with section VII-312 of this division.
 - (4) Provides for a consultation process for the director of neighborhood and development services prior to the commencement of major construction or maintenance or the removal of grand trees as detailed in the TPA, including, but not limited to, consultation with a city-approved certified arborist.
 - (5) Provides that a violation of any provision or condition of the TPA constitutes a violation of this division and results in a loss of the exemption from the requirements of this division. Additionally, the applicable company, supplier or agency who has violated the TPA shall be subject to the penalties specified in section VII-325 of this division and shall be required to financially contribute to the replacement tree fund in accordance with section VII-324(b), for each tree or portion thereof removed in violation of the TPA. Violations of the TPA shall be enforceable through the code enforcement special master process as violations of the zoning code in accordance with section 2-309, Sarasota City Code.
 - (6) The applicable company, supplier or agency that has executed the TPA shall indemnify and hold the city harmless from any and all claims, liabilities, losses, or damages on account of or in any way arising from the existence of the TPA.
 - (7) The applicable company, supplier or agency that has executed the TPA shall be required to obtain and maintain a policy (or policies) of liability insurance for injuries to persons or damage to property caused by or resulting from the execution of the TPA and said entity's activities in the utility easement area with coverage limits acceptable to city and to name city as an additional insured in such policy or policies.
 - (8) The city shall have the sole and absolute right to terminate the TPA upon reasonable advance written notice to the other contracting party as specified in the TPA.

(9) A provision which limits the duration or term of the TPA.

(10) In addition to the matters enumerated above, a TPA may contain such other terms and conditions as may be recommended by the director of neighborhood and development services through the city manager, by the city attorney, or by the planning board which are approved by the city commission.

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 09-4838, § 2(att. 1), 2-17-09)

Sec. VII-315. - Suspension during emergency.

In an event the city commission adopts an emergency ordinance pursuant to F.S. § 252.38(3)(a)(5) as amended, to declare a natural emergency as defined in F.S. ch. 252, the provisions of this division shall be suspended within the geographic area of the city subject to the declaration of a natural emergency for the duration of the state of emergency so declared.

(Ord. No. 02-4401, § 3, 8-4-03)

Sec. VII-316. - Tree removal—Permit required.

Removing or causing to be removed any tree or trees protected by this division located upon private or public property is prohibited unless a tree removal permit has been obtained from the director of development services, except as provided under subsection VII-320(d). Utility companies, electric suppliers and governmental agencies constructing or maintaining easements for water, sewer, electricity, gas, drainage, telephone or television transmission shall be exempt from the provisions of this section if the applicable company, supplier or agency has executed a tree protection agreement with the city which remains in effect, in accordance with the requirements of section VII-314 of this division.

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 09-4838, § 2(att. 1), 2-17-09; Ord. No. 21-5369, § 1, 5-2-22)

Sec. VII-317. - Local business tax receipts and insurance required.

Contractors, subcontractors, tree service contractors, their agents and employees who perform pruning, planting, trimming or removing of trees within the City of Sarasota shall be required to hold valid local business tax receipts and valid proof of worker's compensation insurance, public liability insurance and property damage insurance in accordance with any applicable requirements of Florida law.

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 07-4720 § 2, 5-21-07)

Sec. VII-318. - Exempt trees.

This division shall not apply to:

- (1) Citrus trees.
- (2) Trees grown at commercial nurseries as part of their stock.
- (3) Trees not protected by any other ordinance, or under four and one-half inches D.B.H. with the exception of trees under four and one-half inches D.B.H. when planted to fulfill tree removal mitigation requirements or when planted to fulfill other zoning code requirements.
- (4) Trees grown in institutional botanical gardens as part of the display area. Required trees in parking areas and use and parking buffers are not exempt.

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 21-5369, § 1, 5-2-22)

Sec. VII-319. - Permit procedure.

The director of development services may issue a tree removal permit upon application submitted in accordance with the following requirements:

- (1) Applications for a tree removal permit shall be submitted on forms prescribed by the director of development services. The applications include an affidavit that the applicant, if a contractor required by state law to obtain specified insurance, has obtained such insurance amounts required by state law and that such insurance remains in full force and effect. A permit fee shall be paid at the time the permit is issued.
- (2) A tree removal permit must be obtained prior to the removal of a prohibited tree, however, no permit fee shall be required to be paid.
- (3) The applicant shall submit a site plan containing the following information:
 - a. The shape and dimensions of the lot or parcel, together with the existing and proposed locations of structures and improvements, if any.
 - b. The site plan shall be drawn utilizing standard architect's or engineer's scales.
 - c. The site plan shall show the physical boundaries of the real property.
 - d. The site plan shall show locations of all existing trees, identified by common or botanical names and with D.B.H. annotation on each tree as to whether it is to remain, be relocated, transplanted, replaced or to be removed shall be on the plan, including all mangroves.
 - e. If existing trees are to be transplanted on the property, the site plan shall include the proposed location of such trees. A statement as to how all existing trees are to be moved, maintained and protected during construction must be submitted by the landscape architect, landscape contractor or landscape nurseryman responsible for the relocation of said trees.
 - f. A statement as to the grade changes proposed for the lot or parcel and how such changes will affect those trees that are to remain on the lot or parcel.
 - g. If the tree is an oak tree over 24 inches D.B.H. a statement from a certified arborist or state-registered landscape architect detailing the species of the oak tree.
 - h. An applicant who is re-landscaping an existing qualifying residence may submit a simplified permit application pursuant to subsection VII-320(a)(3)b.
- (4) In lieu of submitting a tree removal permit application, an applicant may submit a no tree verification statement stating that no trees protected by this division exist on site. If such statement is substantiated by an inspection of the site by the director of development services, no permit will be required.
- (5) A tree removal permit shall not be issued for the removal or alteration of any species of Mangroves, *Rhizophora mangle* (Red Mangrove), *Laguncularia racemosa* (White Mangrove), *Avicennia Germinana* (Black Mangrove) and *Conocarpus erecta* (Buttonwood Mangrove) unless a permit for the removal or alteration of mangroves has been issued by the state department of environmental protection. A copy of the state permit shall be submitted with the application for tree removal to the city.

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 09-4838, § 2(att. 1), 2-17-09; Ord. No. 21-5369, § 2, 5-2-22)

Sec. VII-320. - Criteria for granting permits.

- (a) The director of development services shall make one or more of the following findings prior to granting a permit for removal of trees not qualifying as grand trees pursuant to this division:
 - (1) Removal of trees where no mitigation is required:
 - a. That the tree proposed to be removed creates a significant safety hazard to pedestrians, bicycles, vehicular traffic or public utility infrastructure.
 - b. That the tree proposed to be removed prevents reasonable access to private property.
 - c. That the tree proposed to be removed is a diseased tree which creates an immediate and real hazard to people, buildings or other improvements on the subject real property or to other trees or which has a 50-percent or greater crown loss.
 - d. That the tree proposed to be removed is dead, and is not presently being utilized for the nesting or harborage of avian species.

- e. That the tree is weakened by age, storm, fire or other injury and is dangerous to persons or property.
- f. That the public health, safety and welfare of the citizens of the city is promoted by the removal of the tree.
- g. That the tree proposed to be removed is a prohibited tree as defined by this Code.
- h. That the tree(s) to be removed is an undesirable tree species as listed under section VII-330.

(2) Removal of trees where mitigation is required pursuant to section VII-322(2):

- a. That the tree proposed to be removed prevents the reasonable development of a lot or parcel. It is the intent of this provision that no permit shall be granted for the removal of any tree where the applicant has failed to design and locate the proposed improvements to minimize the removal of trees. The director of development services may require an applicant for a tree permit to redesign the proposed structure or improvements or relocate the same on the site so as to maximize the preservation of existing trees and to provide space to transplant or establish replacement trees on the same parcel of land in which they are removed. The director of development services may consult with a city-approved certified arborist or state-registered landscape architect. The cost of such consultation shall be borne by the applicant. The director of development services may require payment of an estimated fee for the consultation in advance by the applicant. Any tree removed pursuant to this subsection shall be mitigated in compliance with the applicable chart set forth in section VII-322(2).
 - i. In making the findings required by subparagraph (a) of this section, the director of development services shall be guided by the following:
 - 1. The existing or proposed locations of structures and improvements upon the lot or parcel and the impact thereon with reference to the preservation of trees.
 - 2. The shape and dimensions of the lot or parcel.
 - 3. The size, age, proximity, location, health and survivability of existing trees upon the lot or parcel.
 - 4. The feasibility of transplanting trees upon the lot or parcel.
 - 5. The feasibility of redesigning the proposed structure or improvements.
 - 6. A comparison shall be made between existing trees within the buildable area of a lot and existing trees within setback areas. Existing trees within setback areas shall be given preferential consideration for protection.
 - ii. Removal of trees within the right-of-way located within the boundaries of the downtown edge, downtown core and downtown Bayfront zone districts. In addition to making the findings required by subparagraph (2)(a) of this section, the director of development services shall be guided by the following:
 - 1. The existing or proposed locations of awnings upon the building, lot or parcel and the impact thereon with reference to the preservation of healthy trees within the right-of-way.
 - 2. The size, age, proximity, location, health and survivability of the existing tree.
 - 3. The feasibility of redesigning the proposed awning.
 - 4. Whether the director of development services has recommended that an adjustment be pursued prior to granting a removal permit.
- b. The property owner has produced a letter from his/her insurance carrier establishing that insurance coverage will be denied unless the protected tree is removed. Any tree removed pursuant to this subsection shall be mitigated in compliance with the applicable chart set forth in section VII-322(2).
- c. The outermost bark of the main trunk of the tree proposed to be removed is within 36 inches or less from the main structure or garage on the property. Any tree removed pursuant to this subsection shall be mitigated in compliance with the applicable chart set forth in section VII-322(2).

(3) Removal of trees where mitigation may be required contingent upon additional factors:

- a. Removal of trees on public property and city trees in rights-of-way. If a tree is shown to cause a public hazard or create an unsafe condition, it may be removed and the unsafe condition corrected. Where practical it will be replaced with a more appropriate tree that:

- i. Adheres to the "right tree, right location" site evaluation and species selection (SESS) criteria pursuant to section VII-322
 - ii. Uses planting technologies that have been shown to reduce damage to public infrastructure.
 - iii. Uses best management practices for new trees planted in that particular location and situation.
 - iv. A city arborist will be consulted on these determinations and that recommendation will be approved by either the director of parks and recreation or the director of public works as may be appropriate, and the director of development services prior to the tree being removed and replaced. The determination should include consideration as to whether the hazard can reasonably be mitigated or eliminated without tree removal.
- b. That the tree(s) to be removed is for the purpose of re-landscaping an existing qualifying residence and is not a grand tree. An "existing qualifying residence" shall be defined as a single-family residential structure which has been owner-occupied by the applicant for at least one year. Applicants shall be provided with a simplified permit process whereby a site plan does not have to be drawn, signed, or sealed by a professional landscape architect or engineer. The intent of this provision is to allow city residents the ability to re-landscape their residential property provided that a grand tree is not being removed and appropriate mitigation is provided. Any tree removed pursuant to this subsection shall be mitigated in compliance with the applicable chart set forth in section VII-322(2) except:
- i. Upon a finding by the city arborist that the tree removal is due to over-density of trees on the site, whereby the "right tree, right location" principles [AKA - Site Evaluation and Species Selection (SESS) criteria] are better served through tree removal, then no replacement trees or mitigation fees are required. The finding of the city arborist may be based on supplemental information provided by a licensed landscape architect or certified arborist.
 - ii. If a homeowner wishes to remove no more than 25 percent of existing tree canopy in the side and back yards, then no replacement trees are required and mitigation may be fulfilled through the payment of fees into the tree mitigation fund. This exception may only be utilized once every three years. The intent of this provision is to allow city residents the flexibility to provide for open space on their canopied or re-landscaped property for sun-dependent activities such as vegetable gardens, solar panels and sun-decks.

(b) Trees qualifying as grand trees: The applicant must meet the requirements of section VII-310 of this division.

(c) Exempt trees: A tree qualifying as an exempt tree must meet the requirements of section VII-318 of this division.

(d) Notwithstanding the above, the City of Sarasota recognizes and adheres to any exception to these regulations found under state law (including, but not limited to, F.S. §§ 163.045 and 163.3209, as may be amended from time to time).

Note: Removal of a healthy right-of-way tree for the purpose of improving sight view corridors or making signage more visible does not qualify as a criterion for granting a tree removal permit absent an independent public health, safety, or welfare basis for removal.

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 06-4663, § 2, 3-20-06; Ord. No. 09-4838, § 2(att. 1), 2-17-09; Ord. No. 16-5173, § 6, 7-5-16; Ord. No. 21-5369, § 2, 5-2-22)

Sec. VII-321. - Permit denial.

If the tree removal permit is denied, the applicant shall be notified, in writing as to the reason for the denial of the permit. An applicant may appeal any decision of the director of neighborhood and development services pertaining to the denial of a tree removal permit or any other decision of the director of neighborhood and development services interpreting or applying this division to the board of adjustment. (See section IV-702(c) of this Code.)

In the event the director of neighborhood and development services determines that it is reasonable to require the redesign of the proposed structures, improvements, or their relocation on the site, so as to preserve existing trees, to accommodate the installation of replacement trees, or transplanting of existing trees, and the applicant fails to submit the design changes, relocate the building or improvements on the site or request a variance (see section IV-606(f) of this Code), the permit shall be denied.

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 09-4838, § 2(att. 1), 2-17-09; Ord. No. 21-5369, § 2, 5-2-22)

All persons issued permits pursuant to this division shall:

- (1) Post a weather-proof protected copy of the tree removal permit at the site proposed for the tree removal. The permit must be displayed on the site prior to the removal of any trees, and remain on the site until the tree removal or construction work is completed.
- (2) Required replacement tree(s). When trees are removed with an approved tree removal permit pursuant to section VII-320(a)(2), or pursuant to section VII-320(a)(3) when applicable, they must be replaced as found below.
 - a. If the tree is being removed from residential property ¹, it must be replaced as follows:

Table 1

Existing Tree Size	Required Replacement Caliper Minimum	Ratio of Replacement Trees to Removed Trees
Existing Tree Size	Required Replacement Caliper Minimum	Ratio of Replacement Trees to Removed Trees
4"—15" D.B.H.	3" for canopy trees 2" for all other trees	1:1
16"—30" D.B.H.	3" for canopy trees 2" for all other trees	2:1
Over 30" D.B.H.	3" for canopy trees 2" for all other trees	3:1

- b. If a tree is being removed from any property other than residential property ¹, it must be replaced as follows:

Table 2

Existing Tree Size	Required Replacement Caliper Minimum	Ratio of Replacement Trees to Removed Trees
Existing Tree Size	Required Replacement Caliper Minimum	Ratio of Replacement Trees to Removed Trees
4"—15" D.B.H.	3"	1:1
16"—30" D.B.H.	5"	2:1
Over 30" D.B.H.	7"	3:1

- c. The required replacement tree or trees shall be of like species, or an alternative species approved by the director of development services based upon consideration of the site conditions (e.g., presence of overhead power lines).
- d. The replacement tree or trees shall adhere to "right tree, right location" principles, meaning that the following site evaluation and species selection (SESS) criteria shall be considered and adhered to:

Site evaluation criteria:

Hardiness zone

Light exposure

Salt tolerance

Other trees onsite

Overhead/underground utility conflict

Building (proximity to)

Root spacing restrictions

Compacted soils, poor drainage, low oxygen

Irrigation

Soil improvements/soil Ph

Species Selection criteria:

Mature size

Form (open canopy/pyramidal/conical)

Function (shade, flower, nesting, etc.)

Fertilization

Maintenance (prune/drop fruit)

Aggressive/destructive roots

- e. The replacement canopy tree or trees canopy trees shall not be less than 12 feet in overall height, with a minimum four-foot spread. Palms shall be a minimum of 12 feet overall height. For all other protected trees which are removed, the replacement tree(s) shall not be less than eight feet in overall height.
- f. Only those tree(s) which are planted in compliance with the SESS criteria under subsection d. above, as determined by a City of Sarasota Arborist, shall be credited towards mitigation.
- g. Trees or palms shall otherwise meet or exceed the "Florida Department of Agriculture, Grades and Standards for Nursery Stock, Florida Number one Grade," as the same may be amended from time to time. Native trees are encouraged. A copy of said publication is on file at the office of the city auditor and clerk, and made part by reference.
- h. Replacement trees must be planted onsite, except where incompatible with site evaluation and species selection (SESS) criteria, whereby mitigation may be satisfied through either: paying into the tree mitigation fund; arranging to plant on private property within 1,000 feet of the subject site; or on public right-of-way, public property, or public park. The owner of the receiving site must provide to the director a letter or some other written document agreeing to accept the mitigation tree(s) and to allow for said tree(s) to be watered and maintained until fully established, and give permission for the city arborist to enter the property to monitor tree health during the one-year establishment period.
- i. No mitigation shall be required if the tree removed is an undesirable tree species as listed under section VII-330.
- j. When trees are removed with an approved tree removal permit for housing sold or rented to low- and moderate-income families, permittees qualify to use eligible funds pursuant to the City of Sarasota Schedule of Fees and Charges for Tree Removal Permits and Replacement Tree Fund. For purposes of this division "housing sold or rented to low and moderate

income families" means families having under 80 percent of the county median income. Permittees are required to replace or mitigate for tree removal in accordance with subsection (2)a. (Table 1) above, except that they will be subject to a reduced mitigation fee pursuant to the aforementioned fee schedule.

- k. In implementing the tree mitigation described in subsections (2)a. and b., above, palm trees may not be utilized as replacement mitigation trees when canopy trees have been removed. In the case of site specific conditions such as the presence of overhead powerlines, understory trees or canopy trees that will mature to a lower height than the projected conflict structures shall be required. In the case of potential below ground utility conflicts, the director may require Silva cells or similar technology.
 - l. Mitigation for trees removed from the right-of-way within the downtown zone districts. The required replacement tree or trees shall be of like species or an alternative species approved by the director of public works. The replacement tree or trees shall be equal in caliper size as the tree removed. The permittee shall plant the replacement trees or palms required prior to the issuance of any required final inspection or certificate of occupancy by the city or within 45 days of tree removal if the tree removal is not related to other permitted construction activities on site.
 - m. The permittee shall plant the replacement trees or palms required prior to the issuance of any required final inspection or certificate of occupancy by the city or within 45 days of tree removal if the tree removal is not related to other permitted construction activities on site.
 - n. If a replacement tree cannot be planted on the removal site or within close proximity to the removal site, as determined by the director of development services, the applicant shall be required to pay a minimum fee into the replacement tree fund as identified in section VII-324 of this division. All fees owed shall be paid prior to the issuance of any building permit for the project.
- (3) For a tree removed without proper permits the required replacement D.B.H. or fee shall be tripled and a tree of like species shall be replaced at the same location or in close proximity to the site of the tree removal, as determined by the director of development services, in addition to paying the penalties specified in section VII-325.
 - (4) A tree removal permit shall be valid for a period of no more than six months from the date of issuance and may be extended in the same manner as a building permit under the Florida Building Code. If the applicant fails to obtain an extension of the tree removal permit, a new tree removal permit will be required prior to commencing construction. If trees are removed as part of a tree removal permit but replacement or mitigation trees have not been installed prior to the tree removal permit expiration, the tree replacement and mitigation obligation remains with the property and must be fulfilled prior to the issuance of any building permit unless the mitigation obligation is transferred to the new building permit.
 - (5) Credit for other plantings. Trees planted in compliance with the landscaping requirements of this Code may be used in whole or in part to satisfy the replacement tree requirements of this section as determined by the director of development services.
 - (6) Trees removed from the city right-of-way shall be transplanted to another city right-of-way or city property so as to maximize the preservation of existing trees if such relocation is deemed viable by a city-approved certified arborist. The cost of such relocation and shall be borne by the permittee.
 - (7) After removal of trees within the city right-of-way, the permittee shall repair the sidewalk to standards specified by the EDCM within one week of tree removal or prior to the issuance of any required final inspection or certificate of occupancy by the city if other sidewalk improvements are being made related to other permitted construction activities on site. The city engineer can direct that repairs be made at an earlier time if it is felt that there is any danger to the public and can order any interim safety measures.

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 06-4663, § 2, 3-20-06; Ord. No. 09-4838, § 2(att. 1), 2-17-09; Ord. No. 16-5173, § 7, 7-5-16; Ord. No. 17-5205, § 2, 6-19-17; Ord. No. 21-5369, § 2, 5-2-22)

Note— ¹ "Residential property" means a single-family, detached building located on a lot that is actively used for single-family residential purposes and that is either a conforming use or a legally recognized nonconforming use in accordance with the City of Sarasota's land development regulations.

Sec. VII-323. - Revocation of permits.

The director of neighborhood and development services may revoke any permit issued pursuant to the division for the failure of the permittee to adhere to any standard or requirement of this division. A permit may also be revoked by the director of neighborhood and development services upon determining the permit was granted based upon material false information, misrepresentation of material fact or mistake of fact or law. Prior to revoking a permit, the permittee shall be given written notice of the violation and the action necessary to correct the same. The notice shall be delivered by U.S. certified mail, return receipt requested, or by hand delivery. The notice shall provide that failure to correct the violation shall result in the revocation of the permit. Within five days of receipt of the aforementioned notice, the permittee may request an opportunity to appear before the director of neighborhood and development services in order to show cause why the permit should not be revoked. However, such appearance shall not be required in the event that the permittee cures the violation within the time designated. If the permittee fails to submit a timely request to appear before the director of neighborhood and development services or if such a request is submitted and the permittee fails to appear as required, the tree removal permit shall be revoked.

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 09-4838, § 2(att. 1), 2-17-09)

Sec. VII-324. - Schedule of fees and charges.

- (a) *Tree removal permit fee:* The fee schedule for tree removal permits shall be adopted by resolution of the city commission and a copy of the resolution shall be maintained at the department of neighborhood and development services and in the office of the city auditor and clerk.
- (b) *Replacement tree fund:*
 - (1) Fees collected in lieu of planting replacement trees on the removal site shall be deposited into a separate fund designated by the city as the replacement tree fund. The fee schedule for the replacement tree fund shall be adopted by resolution of the city commission and a copy of the resolution shall be maintained at the department of neighborhood and development services and in the office of the city auditor and clerk.
 - (2) Fees collected for the removal of trees within the city right-of-way shall be placed into a separate fund designated by the city as the replacement tree fund as specified in subparagraph (1) of this section.

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 06-4663, § 2, 3-20-06; Ord. No. 16-5173, § 8, 7-5-16)

Sec. VII-325. - Penalty for noncompliance.

Any person violating section VII-310 or VII-316 of this division without a proper tree removal permit shall be subject to imposition of a maximum fine of \$225.00 per one inch D.B.H. of tree removed. In addition, any permit fees shall be tripled. If the illegally removed tree is a grand tree, the fine shall be \$225.00 per one inch D.B.H. of tree removed and any permit fees shall be tripled. In addition, the grand tree illegally removed shall be replaced by the required replacement tree on-site at the same location or within close proximity to the removal site with a tree as close to the original size as is feasible, as determined by the director of neighborhood and development services.

In addition, any person who fails to comply with any requirements of this division or any permit conditions shall be subject to imposition of a fine of \$100.00 per day until the noncompliance is corrected.

If the protected tree is completely removed from the site, the director of neighborhood and development services shall be permitted to estimate the size of the tree removed and determine the penalty.

It is the intent of this section that each tree removed or division requirement violated shall constitute a separate offense. Any person owning a legal interest in the real property upon which the removed tree is located and the contractor who was issued either the tree removal permit or building permit for construction thereon shall be individually and separately subject to the penalties as set forth herein. In addition, any person other than those enumerated above found to have illegally removed a tree in violation of this division shall be subject to the

penalties as set forth herein. It shall not be a defense to this section that the person owning any legal interest in the real property upon which the tree is located or the contractor who was issued the tree removal permit or building permit for construction thereon did not have actual knowledge of the tree removal when the violation occurred.

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 09-4838, § 2(att. 1), 2-17-09)

Sec. VII-326. - Withholding of permits and imposition of stop work orders.

Until the provisions of this division, including the conditions of any permits issued thereunder, have been fully met, the city may withhold issuance of any building permit, certificate of occupancy, or inspection required under the current city building code or issue stop work orders for any development, or construction or demolition on any lots, involving tree removal.

(Ord. No. 02-4401, § 3, 8-4-03)

Sec. VII-327. - Removal of dead or damaged trees.

Where dead, damaged or diseased trees exhibit a public health, safety or welfare concern as determined by the director of neighborhood and development services or designee, they shall be removed. Such removal shall be within a period of time as determined by the director of neighborhood and development services.

(Ord. No. 02-4401, § 3, 8-4-03; Ord. No. 09-4838, § 2(att. 1), 2-17-09)

Sec. VII-328. - Testing.

The city arborist is hereby authorized to request testing results from any applicant seeking to remove a tree. Specifically, the city arborist may request testing of any tree or the soil around the perimeter of any tree if the city arborist finds any evidence or reason to believe that the tree requested to be removed has been poisoned. The purpose of said testing is to determine if any attempt has been made to poison the tree sought to be removed. Said test shall be funded by the city's urban forestry line item. In the event the director determines that a tree has been poisoned, the procedures and penalties set forth in section VII-325 shall apply.

(Ord. No. 16-5173, § 9, 7-5-16)

Sec. VII-329. - Recommended trees.

The following are recommended trees:

- (1) *Acer rubrum* (Red Maple).
- (2) *Bursera simaruba* (Gumbo Limbo).
- (3) *Chionanthus virginicus* (Fringe Tree).
- (4) *Clusia rosea* (Clusia (Pitch Apple - tree form)).
- (5) *Coccoloba diversifolia* (Pigeon Plum).
- (6) *Coccoloba uvifera* (Sea Grape - tree form).
- (7) *Concarpus erectus* (Buttonwood - tree form).
- (8) *Cordia* spp (Geiger spp).
- (9) *Delonix regia* (Royal Poinciana).
- (10) *Eugenia foetida* (Spanish Stopper — tree form).
- (11) *Ilex* spp (Holly spp).
- (12) *Juniperus virginiana* (Southern Red Cedar).
- (13) *Lagerstroemia indica* (Crapemyrtle - tree form).

- (14) *Magnolia* spp (Magnolia).
- (15) *Magnolia virginiana* (Sweetbay magnolia).
- (16) *Myrcianthes fragrans* (Simpson Stopper - tree form).
- (17) *Pinus elliotti* (Slash Pine).
- (18) *Pinus palustris* (Long Leaf Pine).
- (19) *Platanus occidentalis* (Sycamore).
- (20) *Prunus angustifolia* (Chickasaw Plum).
- (21) *Prunus umbellata* (Flatwoods Plum).
- (22) *Quercus geminata* (Sand Live Oak).
- (23) *Quercus virginiana* (Live Oak).
- (24) *Sabal palmetto* (Cabbage Palm).
- (25) *Tabebuia heterophylla* (Pink Tabebuia).
- (26) *Tabebuia aurea* (Silver Trumpet tree).
- (27) *Terminalia buceras* CV (Black Olive or Shady Lady).
- (28) *Ulmus alata* (Winged Elm).

(Ord. No. 21-5369, § 1, 5-2-22)

Sec. VII-330. - Undesirable trees.

Undesirable trees negatively impact the City of Sarasota's vision of a healthy, safe and long-term canopy. A tree's status as "undesirable" shall constitute a basis for its removal and no mitigation or fees are required for its removal. If an undesirable tree is planted, it shall not be given any credit towards required mitigation. The following trees are deemed undesirable:

- (1) *Acacia auriculiformis* (Earleaf Acacia).
- (2) *Albizia* spp (Mimosa spp).
- (3) *Araucaria araucana* (Monkey Puzzle).
- (4) *Araucaria heterophylla* (Norfolk Island Pine).
- (5) *Bauhinia blakeana* (Hong Kong Orchid).
- (6) *Bischofia javanica* (Bischofia).
- (7) *Castillemon viminalis* (Bottle Brush).
- (8) *Chorisia speciosa* (Floss Silk Tree).
- (9) *Cinnamomum camphora* (Camphor Tree).
- (10) *Dalbergia sissoo* (Indian Rosewood).
- (11) *Enterolobium cyclocarpa* (Ear/Elephant's Ear).
- (12) *Grevillea robusta* (Silk Oak).
- (13) *Koelreuteria* spp (Golden Rain Tree).
- (14) *Schefflera actinophylla* (Schefelera).
- (15) *Syzigium cumini* (Java Plum).
- (16) *Thespesia polulnea* (Mahoe).

(Ord. No. 21-5369, § 1, 5-2-22)

Sec. VII-331. - Protection of tree roots.

No tree root larger than three inches in diameter shall be severed unless a root management plan by a certified arborist and/or landscape architect has been submitted and approved by a city arborist.

(Ord. No. 21-5369, § 1, 5-2-22)

Sec. VII-332. - Canopy road designation.

Upon application by a resident or city staff, the city commission may designate a roadway as a "canopy road" and erect a sign to commemorate such designation provided that the following three conditions are met:

- (a) The canopy road shall have a minimum of approximately 50 percent upper story coverage (not counting invasive species), per section of roadway as measured by branching, drip line, shadows, and other visual cues.
- (b) The canopy road shall consist of a minimum of approximately 75 percent native and naturalized species.
- (c) The canopy road shall consist of a minimum length of approximately one-eighth mile (660 feet).

(Ord. No. 21-5369, § 1, 5-2-22)