

Article 4. Environmental Habitat Preservation and Enhancement

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**Sec. 18-401. INTENT.**

Trees as defined and their removal regulated in this Article 4 of the Land Development Code are declared to provide and/or maintain beneficial public resources, and it is the intent of City Council, to protect them as herein set out in the interest of the health, safety, and welfare of present and future citizens. Furthermore, it is the intent of this Article to preserve native vegetative plant communities in order to assure sufficient levels of quality wildlife habitat throughout the City of Pinellas Park. In addition, it is further intended to perpetuate through provisions provided herein adequate tree numbers and canopy to maintain the economic and social status of the City of Pinellas Park. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)

To that end, it shall be unlawful to cut down, damage, hatrack, poison, or in any other manner, destroy or cause to be destroyed any trees and/or native understory vegetation as covered by the terms of this Article, except in accordance with all of the provisions of this Article 4 of the Land Development Code. (Ord.

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No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 1825, 1-26-1989; Ord. No. 2039, 8-23-1990)

#### **Sec. 18-402. DEFINITIONS.**

For the purpose of this Article 4 of the Land Development Code, certain terms are defined as follows:

**ADVERSE IMPACT:** Any direct or indirect action likely to cause, or actually causing, a measurable decline in the stability, natural function, or natural diversity of a natural resource or system. (Ord. No. 2039, 8-23-1990)

**BONA FIDE AGRICULTURE:** A land use from which the owner of the land received greater than fifty (50) percent of his livelihood such as, but not limited to, citrus grove and timber production. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

**COMMERCIAL NURSERY or TREE FARM:** A licensed plant or tree nursery or farm in relation to those trees planted and growing on the premises of said licensee, which are so planted and growing for the sale or intended sale to the general public in the ordinary course of said licensee's business. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

**CITY MANAGER:** The City Manager for the City of Pinellas Park, or such person as he shall designate to act in his stead. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

**DIAMETER BREAST HEIGHT (DBH):** The diameter, in inches, of a tree measured at four and one-half (4½) feet above the existing grade. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

**DRIP LINE:** An imaginary, perpendicular line that extends downward from the outermost tips of the tree branches to the ground. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

**ENDANGERED or THREATENED SPECIES or SPECIES OF SPECIAL CONCERN:** A list of plant and animal species that are endangered, threatened or of special concern as promulgated from time to time by the Florida Game and Freshwater Fish Commission. (Ord. No. 2039, 8-23-1990)

**GRUBBING:** The effective removal of understory vegetation, such as, but not limited to, palmetto from the site. As herein defined, no trees greater than four and one-half (4½) inches diameter at DBH will be removed or relocated except in accordance with the provisions of this Article. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)

**HATRACKING:** Otherwise known as topping or heading, refers to the removal of major portions of a tree crown by cutting (pruning) branches back to stubs and/or to the trunk. (Ord. No. 1825, 1-26-1989)

**HISTORIC TREE:** An historic tree shall mean a tree of notable historic interest to the City of Pinellas Park because of its age, type, size, or historic association and has been so designated and that designation has been officially made and promulgated as part of the official records of the City of Pinellas Park. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)

**LAND CLEARING STAGE:** Those operations where trees and vegetation are removed and which occur previous to the construction of buildings, e.g., road right-of-way excavation and paving, lake and drainage system excavation, utility excavation, grubbing, etc. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

**NATIVE VEGETATIVE PLANT COMMUNITIES:** Native vegetative communities are those plant communities naturally occurring in Pinellas Park. Native vegetative plant communities shall include but not be limited to upland hardwood forest, pine flatwoods, and wetlands. These communities are described as follows: (Ord. No. 2039, 8-23-1990)

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- A. UPLAND. Upland hardwood forest—Rich sandy substrate; best developed where limestone or phosphate outcrops occur; mesic; subject to infrequent fire occurrences; vegetation may be characterized by magnolia, pignut hickory, laurel oak and other hardwoods. Species composition varies. A major variation of this vegetative association includes live oak hammock/cabbage palm hammock. (Ord. No. 2039, 8-23-1990)

Pine flatwood—Flat topography; sand substrate with an organic hardpan; vegetation characterized by slash pine or long leaf pine, laurel oak, Chapman's oak, and myrtle oak or wax myrtle with midstory of saw palmetto, gallberry or wiregrass understory. (Ord. No. 2039, 8-23-1990)

- B. WETLAND. Shall mean all those waters, fresh and saline, or areas which are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation specifically adapted to life in saturated conditions. The methodology for determining the limits of the landward extend of wetlands shall be consistent with the currently employed by the State of Florida which includes vegetative indicators, soil type indicators and hydrology. Such wetland vegetative indicators shall be those species listed in the Florida Administrative Code. Wetlands include, but are not limited to rivers, lakes, streams, springs, impoundments, swamps, hydric hammocks, marshes, bogs, sinkholes, estuaries, sloughs, cypress heads, mangrove forests, bayheads, bayous, bays, and open marine waters whether on private or public lands. (Ord. No. 2039, 8-23-1990)

NATIVE UNDERSTORY VEGETATION: Vegetation composed of woody plant species and are considered to be native plants of Florida's forests. This vegetation is generally found occurring under the canopy of larger growing trees, and is composed of tree saplings and brush/shrub species such as, but not limited to, wax myrtle, saw palmetto, gallberry, elderberry, willow, etc. (Ord. No. 2039, 8-23-1990)

NO TREE VERIFICATION: A signed notarized statement by owner or his agent stating that no trees exist upon the site. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

PERSON: Any individual, partnership, corporation, association or other legal entity including the plural as well as the singular. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

PROTECTIVE BARRIER: A physical structure limiting access to a protected area, composed of wooden and/or other suitable materials which assures compliance with the intent of this Article 4 of the Land Development Code. Options and/or variations of these methods may be permitted upon written request if they satisfy the intent of this Article 4 of the Land Development Code. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

REMOVE or REMOVAL: The actual removal of a tree by digging up or cutting down, or the effective removal through damage. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

SIGNIFICANT WILDLIFE HABITAT AREA: Areas or plant communities which are utilized by wildlife species, that are threatened, endangered, or of special concern, for their living and/or breeding purposes. (Ord. No. 2039, 8-23-1990)

SPECIMEN TREE: A specimen tree shall mean a tree of high aesthetic or ecological value because of its type, size, age or other professional criteria, and has been officially designated as such and so promulgated as part of the official records of the City of Pinellas Park. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)

SPECIMEN TREE STANDS: A contiguous grouping of trees of high aesthetic or ecological value based upon any three (3) of the following criteria relative to the tree stand: (Ord. No. 2039, 8-23-1990)

- (a) A relatively mature even aged stand; (Ord. No. 2039, 8-23-1990)

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- (b) A stand with purity of species composition or of a rare or unusual nature; (Ord. No. 2039, 8-23-1990)
- (c) A stand with exceptional aesthetic quality; or (Ord. No. 2039, 8-23-1990)
- (d) A stand which provides wildlife habitat diversity which is important for species existence. (Ord. No. 2039, 8-23-1990)

TRANSPLANT: The digging up by a property owner of a tree from one (1) place on his property and the planting of the same tree in another place on the same property. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

TREE: Any self-supporting woody plant of a species which normally, in the City of Pinellas Park, grows at maturity, to an overall height of a minimum of fifteen (15) feet, including all mangroves and cabbage palms. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

TREE BANK: The term "Tree Bank" shall refer to forms of compliance pertaining to environmental violations covered in this Article 4 and landscaped buffer waivers pursuant to Section 18-1512.10. The forms of compliance are: (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2310, 2-23-1995; Ord. No. 3564, § 1, 7-12-2007; Ord. No. 3605, § 1, 1-24-2008)

- A. Trees which are donated to the City by individuals, as a form of compliance to violations of this Article. These trees are to be planted on public property. (Ord. No. 2310, 2-23-1995; Ord. No. 3564, § 1, 7-12-2007; Ord. No. 3605, § 1, 1-24-2008)
- B. Money which is donated to the City by individuals and placed into a special account, as a form of compliance to violations of this Article or as mitigation for landscaped buffer waivers pursuant to Section 18-1512.10. This money is to be used to purchase trees, shrubs, annuals, perennials, and planting supplies for establishment on public or private residentially zoned and owner-occupied property and/or on any property within the Community Redevelopment District. Rental properties can be made eligible if the property owner agrees and provides an affidavit accepting responsibility for the planting and proper care of the plants. (Ord. No. 2310, 2-23-1995; Ord. No. 3564, § 1, 7-12-2007; Ord. No. 3605, § 1, 1-24-2008)
- C. Prior to applying said funds to vegetative enhancements on private property, approval by the Community Projects Advisory Board of an application from the private property owner for landscape enhancements must be secured. Approval of an application shall be substantially based upon the following criteria: (Ord. No. 3564, § 1, 7-12-2007; Ord. No. 3605, § 1, 1-24-2008)
  - 1. There are fewer than two healthy canopy, intermediate or understory trees occupying the lot. Requests for trees or shrubs to be planted on lots larger than one half acre shall be considered on an individual basis. Nuisance trees as listed in Section 18-1512.5 shall not be counted toward this requirement and must be removed prior to the approval of an application. (Ord. No. 3564, § 1, 7-12-2007; Ord. No. 3605, § 1, 1-24-2008)
  - 2. The plants requested are not required replacements for trees removed pursuant to Article 4 of the Land Development Code. (Ord. No. 3564, § 1, 7-12-2007; Ord. No. 3605, § 1, 1-24-2008)
  - 3. The plants requested are not to be used toward fulfilling landscaping requirements for new construction. (Ord. No. 3564, § 1, 7-12-2007; Ord. No. 3605, § 1, 1-24-2008)
  - 4. Trees and shrubs eligible for planting are limited to those species listed in Section 18-1512.5, except Palms. (Ord. No. 3564, § 1, 7-12-2007; Ord. No. 3605, § 1, 1-24-2008)
  - 5. Nothing contained in this section shall be deemed to impose any liability upon the city, its officers or employees. (Ord. No. 3564, § 1, 7-12-2007; Ord. No. 3605, § 1, 1-24-2008)

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**TREE SURVEY:** A minimum one (1) inch = two hundred (200) feet scale aerial or drawing to scale which provides the following information: Location of all trees protected under the provisions of this Article 4 of the Land Development Code, plotted by accurate techniques; common name of all trees and diameter breast height. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

**WILDLIFE CORRIDOR:** A corridor which provides unrestricted wildlife access from one (1) wildlife habitat area to another and which usually requires wildlife cover such as tree and understory vegetation. (Ord. No. 2039, 8-23-1990)

#### **Sec. 18-403. PERMIT REQUIREMENT.**

The terms and provisions of this Article 4 of the Land Development Code shall apply to real property as follows:

- (A) **SMALL TRACTS.** On platted lots or tracts of land less than one (1) acre in area where a valid Certificate of Occupancy is in effect, it shall be unlawful for any person to remove or cause to be removed, any tree with a trunk diameter of four and one-half (4½) inches or more, said diameter being measured at DBH, or native understory, without first having obtained a permit to do so as provided herein. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)
- (B) **SMALL TRACTS (UNDEVELOPED).** On any platted or unplatted tract of less than one (1) acre in area, it shall be unlawful for any person to remove, or cause to be removed, any tree with a trunk diameter of four and one-half (4½) inches or more, said diameter being measured at DBH, or native understory vegetation, without first having obtained a permit to do so as provided herein. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)
- (C) **LARGE TRACTS.** On any platted or unplatted tract of one (1) acre or more in area, it shall be unlawful for any person to remove, or cause to be removed, any tree with a trunk diameter of four and one-half (4½) inches or more, said diameter being measured at DBH, or native understory vegetation, without first having obtained a permit to do so as provided herein. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)
- (D) **LAND CLEARING.** On any platted, unplatted, or undeveloped land, it shall be unlawful for any person to remove, or cause to be removed, any tree with a trunk diameter of four and one-half (4½) inches or more, said diameter being measured at DBH, or native understory vegetation, without first having obtained a permit to do so as provided herein. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)
- (E) **MANGROVE TREES.** All species, commonly known as "mangroves", including the following species:

Rhizophora mangle—Red Mangrove

Avicennia germinans—Black Mangrove

Laguncularia racemose—White Mangrove

Conocarpus erecta—Buttonwood, Button Mangrove

of whatever size or species, are recognized to be of special ecological value. No mangrove tree(s) shall be removed, transplanted, pruned, or altered in any way without an appropriate permit, except where such tree(s) is located in an area subject to a permit which has been issued by the

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Pinellas County Department of Environmental Management, in which case the provisions of this Article pertaining to mangrove trees shall not apply. Mangroves are exempt from any tree survey requirements required by this Article except they shall be designated by name and clump location, but no other permitting procedures will nullify the requirements of this Article, including but not limited to a one (1) inch = two hundred (200) feet aerial and site plan review. The replacement requirements for properly removed mangroves may be waived where suitable habitat for said mangroves no longer exists. In such cases, replacement requirements will be based on comparable canopy substitutes utilizing other tree species. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990; Ord. No. 2310, 2-23-1995)

- (F) SPECIMEN AND HISTORIC TREES. All real property upon which specimen and/or historic trees are located, having been designated as such under the provisions of this Article 4 of the Land Development Code, shall be maintained in a living condition. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)

**Sec. 18-404. PERMIT APPLICATION.**

Any person who is required to obtain a permit to remove or relocate a tree or clear land and/or grub land or who is otherwise required under the provisions of this Article 4 of the Land Development Code to obtain a permit, shall make application to the City Manager, or his designee, by filing a written application. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)

- (A) PERMIT REQUIREMENTS FOR REMOVAL OR RELOCATION OF PROTECTED TREES. Where an application for removal or relocation of protected trees of four and one-half (4½) inches or greater is submitted, as required by this Article 4, no permit shall be issued until a site plan for the lot or parcel has been reviewed and approved by the City Manager, or his designee. For previously approved and developed sites, no site plan shall be required; however, a written request for relocation or removal of protected trees and the reasons for said request shall be submitted for review and approval by the City Manager or his designee. In order to determine if the removal/relocation of any tree(s) protected by this Article will pose adverse impacts to the overall environment, an onsite inspection will be conducted by the City Manager, or his designee. The purpose of this inspection shall be to evaluate the request according to the criteria specified in Section 18-407, Criteria, Land Development Code, to determine if the requested removal/relocation should be permitted. If approved, a permit will be issued following payment of the appropriate fee as is established by the City of Pinellas Park. The applicant may also be required to replant tree(s) as specified in Section 18-408 Relocation and Replacement. (Ord. No. 2039, 8-23-1990)
- (B) PERMIT REQUIREMENTS FOR LAND CLEARING AND/OR GRUBBING OF VEGETATION. Where an application for land clearing and/or grubbing of native understory vegetation is submitted, as required by this Article 4 no permit shall be issued until a site plan for the lot or parcel has been reviewed and approved by the City Manager, or his designee. For previously approved and developed sites, no site plan shall be required; however, a written request for land clearing and/or grubbing of native understory vegetation and the reasons for said request shall be submitted for review and approval by the City Manager or his designee. In order to determine if a request for land clearing and/or grubbing of native understory vegetation will pose adverse impacts to the overall environment, an on-site inspection will be conducted by the City Manager, or his designee. The purpose of this inspection shall be to evaluate the request according to the criteria specified in Section 18-407, Criteria, Land Development Code, to determine if the requested land clearing and/or grubbing should be permitted. An additional evaluation by the City Manager, or his designee will be conducted according to the following criteria in order to evaluate

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any request for land clearing and grubbing of native understory vegetation for consistency with the City's Comprehensive Plan: (Ord. No. 2039, 8-23-1990)

1. Wetland areas will be protected from physical alteration absent extenuating circumstances. If any physical alteration is permitted in wetland areas, mitigation according to Section 18-408(C), Relocation and Replacement, will be required. (Ord. No. 2039, 8-23-1990)
2. All native vegetative plant communities which are important wildlife habitat will be protected from physical alteration absent extenuating circumstances. If physical alteration is permitted in native vegetative plant communities, mitigation as specified in Section 18-408, will be required. (Ord. No. 2039, 8-23-1990)
3. Significant wildlife habitat areas utilized by endangered or threatened species or species of special concern, will be protected from physical alteration. A wildlife survey will be required in all significant wildlife habitat areas, as specified in Section 18-407.1, Protection of Endangered or Threatened Species or Species of Special Concern, prior to the issuance of a permit for land clearing/grubbing. (Ord. No. 2039, 8-23-1990)
4. Wildlife corridors will be maintained or created between significant wildlife habitat areas, and large plant communities which provide significant wildlife habitat will be protected from fragmentation. (Ord. No. 2039, 8-23-1990)

#### (C) ADDITIONAL PERMIT REQUIREMENTS FOR LAND CLEARING AND/OR GRUBBING OF VEGETATION.

1. Upon completion of the required evaluations, if the lot or parcel is approved for land clearing and/or grubbing, a permit will be issued following payment of the appropriate fee as is established by the City of Pinellas Park. However, prior to the issuance of the permit, the landowner or his agent shall execute a "No Tree Verification", if no trees greater than four and one-half (4½) inches DBH are located on the site. All land clearing or grubbing shall be conducted in such a way as to prevent, to the greatest degree possible, erosional soil loss and/or sedimentation into waterways, lakes or ponds. (Ord. No. 2039, 8-23-1990)
2. Information as to the general number, species and size of protected trees on the property shall be submitted to the City Manager, or his designee before any land clearing or grubbing will be authorized. During authorized grubbing, all trees will be left in an undisturbed condition, including all areas within each tree's drip line. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)
3. Upon written request, land clearing or grubbing may occur prior to site plan approval when the physical condition of the proposed development site does not permit the preparation of existing site conditions and preparation of a tree survey due to dense understory vegetation. However, prior to any land clearing or grubbing, the evaluations specified in Section 18-104(B) and in Section 18-407(A), and a permit with the appropriate fee as specified in Section 18-420 will be required. (Ord. No. 2039, 8-23-1990)
4. Governmental agencies may clean or grub land in order to maintain existing road rights-of-way, drainage and utility areas without complying with the requirements of this Article. Land clearing or grubbing by a governmental agency in order to construct road rights-of-way, drainage and utility areas may occur without paying the permit fee required by this Article, but the applicant shall comply with all other requirements of this Article. (Ord. No. 2039, 8-23-1990)
5. No permit fee will be required for land clearing or grubbing on sites that are predominantly vegetated with exotic nuisance trees and brush species which are exempt from protection as specified in Section 18-412. Land clearing or grubbing may occur within designated road rights-of-way, drainage and other utility areas as depicted on an approved preliminary site plan with no permit fee required. The applicant shall comply with all other requirements of

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this Article 4, and as determined by a site inspection conducted by the City Manager, or his designee. The applicant shall comply with all other requirements of this Article. (Ord. No. 2039, 8-23-1990)

- (D) **SITE PLAN REQUIREMENTS—SMALL TRACTS.** On tracts of land less than one (1) acre in area for which a permit is required under this Article 4, the site plan shall show the following information at a scale sufficient to enable the determination of matters required under this Article: (Ord. No. 2039, 8-23-1990)
1. The shape and dimensions of the lot or parcel, together with the existing and proposed locations of structures and improvements, if any.
  2. Locations of all existing trees, which are subject to this Article 4 of the Land Development Code, identified by common or botanical name. Trees proposed to remain, to be transplanted, or to be removed shall be identified. Groups of trees in close proximity (three (3) feet—five (5) feet) spacing or closer) may be designated as a "clump" of trees, and the predominate specie, estimated number and average size will be listed.
  3. If existing trees are to be transplanted, the proposed relocation for such trees, together with a statement as to how such trees are to be protected during land clearing and construction and maintained after construction.
  4. A statement showing how trees not proposed for removal or relocation are to be protected during land clearing and construction, i.e., a protective barrier as defined herein.
  5. Locations and dimensions of all setbacks and easements, required by the Zoning Code of the City of Pinellas Park.
  6. Statements as to grade changes proposed for the lot or parcel and how such changes will affect compliance with these regulations.
  7. Any proposed tree replacement program.
  8. All trees to be retained shall be so identified by some method; such as painting, flagging, etc., prior to field inspection. All trees shall have suitable protective barriers, as required, erected prior to issuance of a permit.

(Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)

- (E) **SITE PLAN REQUIREMENTS—LARGE TRACTS.** On tracts of land of one (1) acre or more in area for which a permit is required under this Article 4, the required site plan shall include a topographical survey sealed by a registered engineer or registered surveyor, which shows the information required in Section 18-404(D)(1—8); a tree survey of all areas for which tree removal authorization is being requested other than areas previously approved under the land clearing or grubbing, and an aerial of suitable quality (minimum one (1) inch = two hundred (200) feet), to facilitate site plan review and/or a tree survey. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)
- (F) **ALTERNATE SITE PLAN INFORMATION.** In the event that there are no trees or vegetation cover located on the site to be developed which are required to be protected under the provisions of this Article 4 of the Land Development Code, the applicant shall so state in his application for a No Tree Verification. If such statement is substantiated by an inspection of the site by the City Manager or his designee, the applicant shall be relieved of the necessity of supplying unnecessary or unimportant information, such as topographic survey, etc. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)
- (G) **TIME OF PERMIT.** Any and all permits issued by the City of Pinellas Park pursuant to this Article 4 of the Land Development Code shall be null and void if commencement of work so permitted is not started within the time prescribed therein, not to exceed six (6) months; the time for completion



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of such work may be extended by the City Manager or his designee, for an additional period not to exceed six (6) months, upon the showing of good cause by the applicant. Permits not acted upon within this period are null and void and future work will require a new application. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)

#### **Sec. 18-405. PROCEDURE.**

Tree removal application shall be field checked. The City Manager or his designee, may request a recommendation concerning the application from any or all appropriate Pinellas Park Departments. No tree removal permit will be approved without final site plan approval of the project, except in the case of a land clearing or grubbing permit as defined herein. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

#### **Sec. 18-406. PRE-APPLICATION INSPECTION SERVICE.**

In connection with applications under the alternate site plan procedure and in connection with applications involving all land clearing, the City Manager or a designee shall make their services available for pre-application inspections of the site involved. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2310, 2-23-1995)

#### **Sec. 18-407. CRITERIA.**

Upon receiving the field inspection report and requested recommendations concerning the application for tree removal/relocation and/or land clearing and grubbing, the City Manager, or his designee, shall consider the potential for significant adverse impact on the urban and natural environment in the granting of a permit; and whether the application meets other provisions of this Article. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)

- (A) ENVIRONMENTAL CRITERIA. In determining whether to grant the permit the following environmental criteria shall be evaluated: (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)
1. GROUND AND SURFACE WATER STABILIZATION. Whether the removal or relocation of tree(s) or other native understory vegetation will substantially alter the water table adversely regarding water assimilation by vegetation, transpiration, and the interception of solar radiation as it affects the evaporation potential of associated soils and bodies of water.
  2. WATER QUALITY AND/OR AQUIFER RECHARGE. Whether the removal or relocation of tree(s) or other native understory vegetation will lessen the ability for the natural assimilation of nutrients, chemical pollutants, heavy metals, silt and other noxious substances from ground and surface waters.
  3. ECOLOGICAL IMPACTS. Whether the removal or relocation of tree(s) or other native understory vegetation will have an adverse impact upon existing biological and ecological systems, microclimatic conditions which directly affect these systems, or whether such removals will create conditions which may adversely affect the dynamic equilibrium of associated systems.
  4. NOISE POLLUTION. Whether the removal or relocation of tree(s) or other native understory vegetation will significantly increase ambient noise levels to the degree that a nuisance is anticipated to occur or that a violation of the City of Pinellas Park noise control ordinance is anticipated to occur.

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5. AIR MOVEMENT. Whether the removal or relocation of tree(s) or other native understory vegetation will significantly reduce the ability of the existing vegetation to reduce wind velocities to the degree that a nuisance is anticipated to occur.
6. AIR QUALITY. Whether the removal or relocation of tree(s) or other native understory vegetation will significantly affect the natural clearing of the atmosphere by vegetation through particulate matter interception, or significantly affect production of oxygen released to the atmosphere as a by-product of photosynthesis.
7. WILDLIFE HABITAT. Whether the removal or relocation of tree(s) or other native understory vegetation will significantly reduce available habitat for wildlife existence and reproduction or result in the emigration of wildlife from adjacent or associated ecosystems.
8. AESTHETIC DEGRADATION. Whether the removal or relocation of tree(s) or other native understory vegetation will have a significant adverse affect on property values in the neighborhood where the applicant's property is located.
9. ENDANGERED OR THREATENED SPECIES AND SPECIES OF SPECIAL CONCERN. Whether the removal or relocation of tree(s) or other native understory vegetation will significantly affect endangered or threatened species or species of special concern such as the affect on nesting, reproduction, critical food source, critical habitat or cover for such species or whether the vegetation itself is endangered, threatened, or a species of special concern.
10. SOIL STABILIZATION. Whether the removal or relocation of tree(s) or other native understory vegetation will result in uncontrolled erosion of soils into surface waters, or adjacent properties.

(Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)

- (B) CRITERIA FOR REMOVAL. The preceding environmental criteria shall be balanced against the following conditions to determine if a permit for tree(s) and or native understory vegetation removal or relocation shall be issued. However, should no significant adverse impact be determined using the preceding criteria, and if one (1) or more of the following conditions exist, the City Manager, or his designee shall issue the permit: (Ord. No. 2039, 8-23-1990)
1. The tree is located in an area where a structure or improvements may be placed according to an approved plan and it unreasonably restricts the economic enjoyment of the property, and the tree cannot be relocated on or off the site because of age, type, or size of the tree.
  2. The tree is diseased, injured, in danger of falling, too close to existing or proposed structures, interferes with existing utility service, creates unsafe vision clearance or conflicts with other Ordinances or regulations.
  3. It is in the welfare of the general public, that the tree be removed for a reason(s) other than set forth above.

(Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)

- (C) BASIS FOR DENIAL. The City Manager, or his designee, upon a determination that an application is to be denied, shall state the basis for such denial specifically and shall notify the applicant of the criteria upon which said denial is predicated. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)

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**Sec. 18-407.1. PROTECTION OF ENDANGERED OR THREATENED SPECIES OR SPECIES OF SPECIAL CONCERN.**

Upon field review of the site plan, and the determination that a site contains plant or animal species which are endangered, threatened or species of special concern, the applicant shall obtain and submit to the City Manager or his designee written comments and recommendations concerning the impact of the proposed use on such specie(s) from the appropriate agency such as the Florida Game and Freshwater Fish Commission, the United States Fish and Wildlife Service or the Florida Department of Agriculture and Consumer Services. The City Manager or his designee may utilize this information as a basis to require additional preservation area or to determine the degree of development activity allowed. (Ord. No. 2039, 8-23-1990)

**Sec. 18-408. RELOCATION OR REPLACEMENT.**

- (A) **CONDITIONS.** As a condition of the granting of a permit, the applicant may be required, where practical, to relocate the tree(s) being removed; or required to replace the tree(s) with approved trees (per Section 18-1512 of the Land Development Code) of a quantity as specified in Subsections (B) and (C) below. The replacement(s) shall have at least equal shade potential and other characteristics comparable to that of the tree(s) removed, provided that sufficient growing space exists, as specified in the "Planting Area Requirements" table found in Section 18-1512.5(B)4.(a) of the Land Development Code; otherwise a lesser species may be utilized as fulfillment of this requirement. All replacements shall have a minimum of one and one-half-inch diameter measured six (6) inches aboveground and shall be a minimum of eight (8) feet in overall height at time of planting; and shall be Florida Grade #1 or better nursery stock. A suggested list of replacement trees will be on file in the Zoning Division. (Ord. No. 2310, 2-23-1995)
- (B) **REPLACEMENT TREE(S).** Regardless of the number of tree(s) permitted for removal, minimum replant requirements on all sites shall be determined utilizing the table provided below. Any removal of tree(s) will require that up to this minimum number be replaced. The exceptions to this requirement are for existing private Mobile Home Parks under one (1) ownership, and specific common areas contained in larger existing developments. Tree replacement on these locations shall be on a one-for-one ratio, with tree species of equal shade producing qualities. Any approved tree(s) left in good growing condition on the site, which satisfy the size requirements specified in Subsection (A) above, shall be counted toward these minimum numbers. (Ord. No. 2310, 2-23-1995)

TREE REPLACEMENT REQUIREMENTS

Lot Size Square Footage	Minimum Replacements
3,500—5,999	2
6,000—9,499	4
9,500—15,999	6
Over 16,000 (per 16,000-square-foot unit)	8

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For developed lots where a landscaping plan in which existing trees were allowed for specific planting credit was submitted and approved by the City, if such trees are removed, the number of required replacement trees shall be consistent with the number of tree planting credits allowed at the time of plan approval. (Ord. No. 2310, 2-23-1995)

(C) REMOVAL OF DEAD OR HAZARDOUS\* TREE(S). The removal of dead or hazardous\* tree(s), or tree(s) causing noncorrectable damage to structures, shall be exempt from the replacement requirements of this Section 18-408, unless the following criteria results: (Ord. No. 2310, 2-23-1995)

1. The removal of the tree(s) identified in this subsection results in a deficiency in the quantity of remaining approved trees, as specified in the table above. In this case, replacement shall be on a one-for-one ratio, with tree(s) of equal shade producing qualities. (Ord. No. 2310, 2-23-1995)
2. The tree(s) identified in this subsection were trees which satisfied the requirements of Section 18-1512.6. In this case, replacement shall be on a one-for-one ratio, with tree(s) of equal shade producing qualities. (Ord. No. 2310, 2-23-1995)

\*Coder, Dr. Kim D. (1990). Hazard Tree Evaluation. Proceedings of the Urban Forestry Institute; the Urban Forest; Planning, Management, and Policy (Section III). IFAS, University of Florida.

(D) WETLAND REPLACEMENT. The replacement requirements for legally removed wetlands shall be defined on a square footage basis and shall use a minimum, one (1) acre (or portion thereof) created for each acre (or portion thereof) adversely impacted. Each acre composed of a naturally occurring diversity of trees, shrubs, and herbaceous vegetation, to reestablish the wetland habitat with eighty-five (85) percent coverage within three (3) years. Replanted areas shall be planted with a minimum of one (1) replant tree per two hundred (200) square feet, and naturally occurring shrub and ground cover shall be replanted on three-foot centers. Where suitable habitat for said wetlands no longer exists the replacement requirements shall be based on other tree species with comparable canopy. (Ord. No. 2039, 8-23-1990; Ord. No. 2310, 2-23-1995)

(E) UPLAND BUFFERS ADJACENT TO WETLANDS.

1. PURPOSE. It is the purpose of an upland buffer to further protect wetlands, their associated wildlife and water quality and quantity attributes from adjacent development impacts. Such impacts include siltation, eutrophication, noise, artificial light intrusion and human and domestic animal intrusion. Upland buffers will also provide preservation of upland wildlife habitat. (Ord. No. 2039, 8-23-1990)
2. UPLAND BUFFER REQUIREMENTS. Upland buffers shall be required immediately adjacent to a wetland in accordance with Table I, Standard Upland Buffer Width, or as otherwise specified in this Section. (Ord. No. 2039, 8-23-1990)

The upland buffers must be shown on a site plan and must be preserved during site development. Platted single-family lots and sites with development approved through previous Site Plan Review procedures of the City of Pinellas Park, which received approval prior to adoption of Ordinance No. 2039 shall be exempt from the requirements of this Section, unless they fall within the redevelopment criteria specified in Section 18-1512.6(E) "Landscape Standards for Sites Proposing Building and/or Vehicular Use Area Expansion" of the Land Development Code. The upland buffer shall be recorded as a conservation easement on the recorded plat for the development. (Ord. No. 2039, 8-23-1990; Ord. No. 2310, 2-23-1995)

TABLE 1

	Standard Upland Buffer Width (feet)
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(a) Isolated wetlands	15
(b) Natural creeks or other waterways which are designated as Preservation Land Use Areas which are connected with waters of the State as defined in the Florida Administrative Code	15 outside the top bank or contiguous wetlands whichever is greater
(c) All significant wetlands which meet the definition of waters of the State	50

3. ALTERNATIVE UPLAND BUFFER PLAN. Upon approval of the City Manager, or his designee, an applicant may reduce the buffer width up to one-third (1/3) the values in Table I, Standard Upland Buffer Width (e.g. fifteen (15) feet reduced to ten (10) feet or fifty (50) feet reduced to thirty-three (33) feet) by providing additional width in one (1) section of the buffer and correspondingly reduce the buffer width in another section to result in an equivalent or greater square footage. (Ord. No. 2039, 8-23-1990)

An applicant may choose to enhance a buffer utilizing additional plant material, topographic changes or other measures in order to reduce the buffer requirement. An enhanced upland buffer area shall be planted with one (1) replant tree per four hundred (400) square feet, and naturally occurring shrub and ground cover shall be replanted on three-foot centers. Such an Upland Buffer Enhancement Plan shall be presented to the City Manager, or his designee, for approval and if approved shall permit the applicant to reduce the buffer width up to one-third (1/3) of the values of Table I, Standard Upland Buffer Widths. (e.g. fifteen (15) feet reduced to ten (10) feet or fifty (50) feet reduced to thirty-three (33) feet). (Ord. No. 2039, 8-23-1990)

(F) UPLAND PRESERVATION AREAS.

1. PURPOSE. It is the purpose of an upland preservation area to provide for the preservation of viable upland wildlife habitats and representative native vegetative plant communities. The protection of these areas will help to ensure that adequate feeding, nesting and cover necessary for the continued survival of native wildlife species is available while protecting naturally occurring vegetative plant communities. (Ord. No. 2039, 8-23-1990)
2. UPLAND PRESERVATION AREA REQUIREMENTS. Any site with five (5) acres or greater of contiguous ownership shall be required to preserve a minimum of three (3) percent of the upland portion of a parcel as an upland preservation area. The upland preservation area must be shown on the site plan and must be preserved during site development. The upland preservation area for one (1) or more parcels may be provided on one (1) or more other parcels if all parcels are contiguous and are considered as a single development under unified control. All land area contained within and as part of upland preservation areas shall be credited one hundred (100) percent toward the open space requirements. Furthermore, if the required establishment of an upland preservation area leads to unusual hardship in the development of the site, the City Manager, or his designee may allow for reduction in green space buffer requirements. The request for a reduction in green space buffer requirements will be evaluated on a site-by-site basis and in accordance with the following criteria: (Ord. No. 2039, 8-23-1990)
  - (a) The unique characteristics of the site, including but not limited to, location, size, dimensional configuration, type of soil, the existence of nuisance exotic vegetation, the existence of nuisance trees or shrubs, etc.; (Ord. No. 2039, 8-23-1990)

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- (b) The existence of specimen trees on the site; (Ord. No. 2039, 8-23-1990)
- (c) The adverse impact, if any, on abutting property owners; (Ord. No. 2039, 8-23-1990)
- (d) The substantial, adverse alteration, if any, on the water table regarding water assimilation by vegetation, transpiration, or the interception of solar radiation as it effects the evaporation potential of associated soils and bodies of water; (Ord. No. 2039, 8-23-1990)
- (e) The adverse effect, if any, on the natural assimilation of nutrients, chemical pollutants, heavy metals, silt and other noxious substances from ground and surface waters; (Ord. No. 2039, 8-23-1990)
- (f) The adverse impact, if any, upon existing biological and ecological systems, microclimatic conditions which directly affect these systems, including adverse effects on the dynamic equilibrium of associated systems; (Ord. No. 2039, 8-23-1990)
- (g) The adverse impact, if any, on ambient noise levels to the degree that a nuisance is anticipated to occur or that a violation of the City of Pinellas Park Noise Control Ordinance is anticipated to occur; (Ord. No. 2039, 8-23-1990)
- (h) The extent to which the request will significantly reduce available habitat for wildlife existence and reproduction or result in the emigration of wildlife from adjacent or associated ecosystems; (Ord. No. 2039, 8-23-1990)
- (i) The extent to which the request will significantly and adversely affect endangered or threatened species or species of special concern such as the effect on nesting, reproduction, critical food source, critical habitat or cover for such species and the extent to which the request will significantly and adversely affect vegetation that is endangered or threatened or that is a species of special concern. (Ord. No. 2039, 8-23-1990)

If the request for reduction in green space buffer requirements is denied, this applicant may appeal the denial in accordance with Section 18-417 of this Article. (Ord. No. 2039, 8-23-1990)

3. EXEMPTIONS. Platted single-family lots and site with development approved through previous Site Plan Review Procedures to the City of Pinellas Park, which received approval prior to adoption of Ordinance 2039 shall be exempt from the requirements of this Section, unless they fall within the redevelopment criteria specified in Section 18-1512.6(E) "Landscape Standards For Sites Proposing Building and/or Vehicular Use Area Expansion" of the Land Development Code. (Ord. No. 2039, 8-23-1990; Ord. No. 2310, 2-23-1995)
4. RECORDATION AS CONSERVATION EASEMENT. The upland preservation area shall be recorded as a conservation easement on the record plat for the development. (Ord. No. 2039, 8-23-1990)
5. UPLAND PRESERVATION AREAS CONTIGUOUS TO BUFFER. The upland preservation parcel shall be located in a manner which maximizes the contiguity and retention of natural vegetation including understory vegetation. Where wetland vegetation exists and upland buffers are provided, the upland preservation area should, where feasible, be contiguous to the buffer. Upland buffers required pursuant to Part D, shall be counted as part of the three (3) percent requirement of this Section. (Ord. No. 2039, 8-23-1990)
6. QUALITY OF UPLAND NATIVE VEGETATION. Upon site plan submittal, the City Manager or his designee, shall inspect the parcel and utilizing the criteria of Section 18-407(A), evaluate the upland native vegetative plant communities of the site. If the vegetation is determined to be of good quality, the applicant shall comply with the three (3) percent requirement in accordance with this Section. However, if the City determines the vegetation is of poor quality, the applicant shall enhance that portion of the three (3) percent preservation area of poor quality by replanting one (1) tree per four hundred (400) square feet and by replanting naturally occurring ground cover on

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three-foot centers. Such plan shall be submitted for approval to the City Manager, or his designee. (Ord. No. 2039, 8-23-1990)

- (G) **ACTIVITIES PROHIBITED IN WETLAND, UPLAND BUFFER, AND UPLAND PRESERVATION AREAS.** In general, the following activities in these defined areas shall be prohibited:
- (a) Placement of a structure, road or utilities.
  - (b) Planting of exotic vegetation.
  - (c) Removal of native vegetation including mowing or trimming.
  - (d) Fill with dirt, topsoil, sand, gravel or other similar material.
  - (e) Excavation.
  - (f) Storage of equipment, supplies, materials, machinery, portable buildings, etc.
  - (g) Application of herbicides, pesticides, fertilizers, or chemical agents.

Maintenance activities approved by the City Manager, or a designee, of creeks, channels, ditches, canals or other waterways will be allowed within a buffer. (Ord. No. 2039, 8-23-1990; Ord. No. 2310, 2-23-1995)

- (H) **REPLANT SIZE REQUIREMENTS FOR WETLAND, UPLAND BUFFER, AND UPLAND PRESERVATION AREAS.** The tree, shrub and vegetation replants in these areas shall be specified as Secondary Landscaping. The minimum size required for all Secondary Landscaping trees shall be three-quarters ( $\frac{3}{4}$ ) of an inch DBH, measured at twelve (12) inches aboveground, and four (4) feet tall. All other landscaping, as addressed in Section 18-1512 "Landscaping Regulations" and replacement trees, shrubs and vegetation as addressed in this Article 4, shall be specified as Primary Landscaping. The size requirements for all Primary Landscaping shall remain as specified in this Code. (Ord. No. 2039, 8-23-1990; Ord. No. 2310, 2-23-1995)
- (I) **SPECIAL DESIGN CRITERIA.** As a condition to granting a permit required by this Article, the applicant may be required to utilize special construction techniques and designs to increase oxygen exchange and water and nutrient availability to a tree, such as but not limited to, tree wells, turf or paving blocks, aeration systems, special feeder systems and stern walls. (Ord. No. 2039, 8-23-1990; Ord. No. 2310, 2-23-1995)
- (J) **TREE BANK.** Where a tree(s) is (are) removed in violation of this Article the City shall require tree replants, or cash settlement equal to the value of the tree replacements, or a cash settlement equal to a percentage of the value of the violated tree(s), as specified in Section 18-415, "Processing of Violations and Enforcement". The trees shall be used for planting on public properties. All monies received shall be placed in the "Tree Bank" account to be used for the purchase of trees and tree planting supplies for tree planting projects on properties as described in Subsection 402 "DEFINITIONS" above. (Ord. No. 2310, 2-23-1995; Ord. No. 3605, § 2, 1-24-2008)

#### **Sec. 18-409. TREE PROTECTION DURING CONSTRUCTION.**

- (A) It shall be unlawful for any person in the construction of any structures or other improvements to place solvents, material, construction machinery, or temporary soil deposits within six (6) feet or two-thirds ( $\frac{2}{3}$ ) of the drip line, as defined herein, whichever is greater, of any tree having a four-and-one-half-inch or greater trunk diameter being measured at DBH above existing grade, or within six (6) feet of other vegetation protected by the provisions of this Article. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)
- (B) Before development, land clearing, filling of any land alteration, a permit will be required and the developer shall be required to erect suitable protective barriers and these protective structures where required shall remain until such time as they are authorized to be removed by the City of Pinellas Park

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Field Inspectors of the appropriate Department or issuance of Final Certificate of Occupancy. Also, during construction, no attachments or wires shall be attached to any of said trees so protected. Wooden, metal or other substantial material shall be utilized in the construction of barriers. Barriers will be required for all trees and natural vegetation being protected, except in the following cases:

1. ROAD RIGHT-OF-WAY, UTILITY EASEMENTS, ETC. These areas may be ribboned by placing stakes a minimum of fifty (50) feet apart and tying ribbon, plastic tape, rope, etc., from stake to stake along the outside perimeters of such areas to be cleared.
2. LARGE PROPERTY AREAS SEPARATE FROM THE CONSTRUCTION OR LAND CLEARING AREA INTO WHICH NO EQUIPMENT WILL BE OPERATED OR PLACED. These areas may also be ribboned off as described above.

(C) Removal of any trees, shrubs or vegetation within the protective barriers shall require approval by the City Manager, or his designee. Failure to obtain such approval shall be considered a violation of this Article. (Ord. No. 2039, 8-23-1990)

(Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983; Ord. No. 2039, 8-23-1990)

**Sec. 18-410. EXCEPTIONS FOR BETTERMENT PLANS.**

Applicants for permits shall be entitled to demonstrate by means of a proper landscape plan that an improvement or betterment of the environment can be accomplished over the existing site conditions, if such landscape plan is carried out to its fullest. If such a detailed landscape plan is so offered and is accepted by the City Manager or his designee, the applicant shall guarantee by adequate bond, the faithful adherence and completion of such landscape plan. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

**Sec. 18-411. EMERGENCIES.**

In case of emergencies, such as hurricane, windstorm, flood, freeze or other disasters, the requirements of these regulations may be waived by the City Manager or his designee, upon a finding that such waiver is necessary so that public or private work to restore order in the City will not be impeded. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

**Sec. 18-412. EXEMPTIONS.**

1. The provisions of this Article shall not apply to the transplant of a tree less than six (6) inches DBH on small tracts. (Ord. No. 2310, 2-23-1995)
2. The provisions of this Article shall not apply to tree(s) four and one-half (4½) inches DBH or smaller, on small tracts where a valid Certificate of Occupancy has been issued excepting required landscaping trees per Section 18-1512, "Landscaping Regulations". (Ord. No. 2310, 2-23-1995)
3. The provisions of this Article shall not apply to any land upon which bona fide agriculture uses and practices, as herein defined, are being conducted. (Ord. No. 2310, 2-23-1995)
4. Specifically exempt from the terms and provisions of this Article are the following species of trees: (Ord. No. 2310, 2-23-1995)
  - (a) All palm trees other than Cabbage Palm (*Sabal palmetto*);
  - (b) Australian Pine (*Casuarina* spp.);
  - (c) Brazilian Pepper (*Schinus* spp.);



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- (d) Citrus Species;
- (e) Chinaberry (*Melia azedarach*);
- (f) Chinese Tallow (*Sapium sebiferum*);
- (g) Ear Tree (*Enterolobium cyclocarpum*);
- (h) Eucalyptus (*Eucalyptus* spp.);
- (i) Punk (*Melaleuca eucadendra*);
- (j) Silk Oak (*Grevillea robusta*); and
- (k) Woman's Tongue (*Albizia* spp.).

#### **Sec. 18-413. PUBLIC RIGHT-OF-WAY.**

No trees shall be removed from the public right-of-way except under the direction of the City Manager or his designee. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

#### **Sec. 18-414. CERTAIN TREES PROHIBITED; REMOVAL REQUIRED.**

- (A) No person shall plant or cause to be planted anywhere within the corporate limits of the City of Pinellas Park, any of the following tree species: 1) Australian Pine (*Casuarina* Spp.), 2) Brazilian Pepper (*Schinus* Spp.), 3) Chinese Tallow (*Sapium sebiferum*), 4) Punk (*Melaleuca* Spp.) Whenever the City Manager or a designee, after investigation, shall determine that any one of the above prohibited trees has been planted within the City, the City Manager or a designee shall cause to be served upon the owner or occupant of the real property upon which the trees are planted in violation of this Section a written notice requiring such owner or occupant to remove such tree or trees within fifteen (15) days after the service of such notice. (Ord. No. 2310, 2-23-1995)
- (B) If after the service of the notice provided herein, the owner or occupant does not comply with the directions contained therein within the time specified, the City Manager, or his designee, may lawfully have the tree or trees removed and charge the cost of removal thereof to the real property owner.

#### **Sec. 18-415. PROCESSING OF VIOLATIONS AND ENFORCEMENT.**

- (A) The City Manager or his designee is hereby authorized and directed to enforce all of the provisions of this Ordinance. When evidence of a violation of this Article is documented, the City Manager or his designee, in addition to any other penalties herein provided, shall notify the owner of the parcel in writing of the violation and what steps must be taken to comply with the regulations of this Article. Provisions for tree replacement shall be determined by first ascertaining the zoning of the parcel on which the violation occurred, and then either Section 1 or 2 below shall be utilized. The number of replacement trees and the tree species shall, at a minimum, meet the requirements of this Article and Section 18-1512, Landscaping Regulations, of the Land Development Code. (Ord. No. 1825, 1-26-1989; Ord. No. 2039, 8-23-1990; Ord. No. 2146, 4-23-1992; Ord. No. 3605, § 3, 1-24-2008)
  - 1. For trees protected by this Ordinance which have been cut down, damaged, hatracked, poisoned or in any other manner destroyed without a permit and are located on parcels zoned "F", "RE", "RR", "R-1", "R-2", "R-3", "T-1", or developed with dwellings on individual lots in a "RPUD", the following penalties shall apply utilizing a sliding scale: (Ord. No. 2146, 4-23-1992; Ord. No. 3605, § 3, 1-24-2008)

#### SLIDING SCALE

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DBH OF PROTECTED TREE(S) VIOLATED	(a) TREE REPLACEMENT(S)	OR (b) CASH VALUE(ISA FORMULA)*
4½"–10" and trees which are otherwise required that are less than 4½"	Tree for tree	20%
More than 10" not greater than 15"	40% of total inches of tree(s) violated	20%
More than 15" not greater than 20"	60% of total inches of tree(s) violated	30%
More than 20" not greater than 25"	80% of total inches of tree(s) violated	30%
Greater than 25"	100% of total inches of tree(s) violated	40%

\*ISA-International Society of Arboriculture, Shade Tree Value Formula

- (a) Tree Replacement. The replacement of a tree or trees on the parcel in violation shall be in sufficient number so that the sum of the DBH of the replacement trees complies to part (a) of the Sliding Scale. The number and size of trees violated may be determined by surveys, field inspection, aerial interpretation, or statistical analysis of trees on adjacent properties. If the number of required replacement trees, as derived from this method, exceeds the holding capacity of the parcel in violation, the required replacement trees which do not fit on the parcel in violation may be placed in the City's Tree Bank for later planting on public school and/or on City owned properties; or (Ord. No. 2146, 4-23-1992; Ord. No. 3605, § 3, 1-24-2008)
- (b) If the holding capacity of the parcel in violation does not permit tree replacement on the parcel in violation, a cash penalty totalling the value of the tree(s) violated, as derived by the cash value of the ISA Formula of part (b) of the Sliding Scale, will be calculated. This cash penalty shall be paid by the violator to the City's Tree Bank for the purchase of tree(s) to be planted on property as described in Subsection 18-402 "DEFINITIONS"/TREE BANK above; or (Ord. No. 2146, 4-23-1992; Ord. No. 3605, § 3, 1-24-2008)
- (c) A combination of (a) and (b) above may be applied, depending on the holding capacity of the parcel in violation. The number of required replacement trees to be planted on the parcel in violation and the cash penalty, as derived by (a) and (b) above, in any combination may be applied, as determined by the City working with the owner of the parcel in violation. Any replacement trees that do not fit on the parcel in violation, or cash penalties shall be placed in the City's Tree Bank for later planting or purchase of tree(s) to be planted on property as described in Subsection 18-402 "DEFINITIONS"/TREE BANK above. (Ord. No. 2146, 4-23-1992; Ord. No. 3605, § 3, 1-24-2008)

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2. For trees protected by this Ordinance which have been cut down, damaged, hatracked, poisoned or in any other manner destroyed without a permit, and are located on parcels which are not zoned "F", "RE", "RR", "R-1", "R-2", "R-3", "T-1", or developed with dwellings on individual lots in a "RPUD", the following penalties shall apply: (Ord. No. 2146, 4-23-1992; Ord. No. 3605, § 3, 1-24-2008)
  - (a) Inch for Inch Replacement. The replacement of a tree or trees on the parcel in violation in sufficient number so that the sum of the DBH of the replacement trees equals or exceeds the DBH of the tree(s) that were cut down, damaged, hatracked, poisoned or in any other manner destroyed without a permit. The number and size of trees violated may be determined by surveys, field inspection, aerial interpretation, or statistical analysis of trees on adjacent properties. If the number of required replacement trees, as derived from this method, exceeds the holding capacity of the parcel in violation, the required replacement trees which do not fit on the parcel in violation may be placed in the City's Tree Bank for later planting on public school and/or City owned properties; or (Ord. No. 2146, 4-23-1992; Ord. No. 3605, § 3, 1-24-2008)
  - (b) If the holding capacity of the parcel in violation does not permit tree replacement on the parcel in violation, a cash penalty totalling the value of the tree(s) violated, as derived by the International Society of Arboriculture Shade Tree Value Formula, will be calculated. This cash penalty shall be paid by the violator to the City's Tree Bank for the purchase of tree(s) to be planted on property as described in Subsection 18-402 "DEFINITIONS"/TREE BANK above. (Ord. No. 2146, 4-23-1992; Ord. No. 3605, § 3, 1-24-2008)
  - (c) A combination of (a) and (b) above may be applied, depending on the holding capacity of the parcel in violation. The number of required replacement trees to be planted on the parcel in violation and the cash penalty, as derived by (a) and (b) above, in any combination may be applied, as determined by the City working with the owner of the parcel in violation. Any replacement trees that do not fit on the parcel in violation, or cash penalties shall be placed in the City's Tree Bank for later planting or purchase of tree(s) to be planted on property as described in Subsection 18-402 "DEFINITIONS"/TREE BANK above. (Ord. No. 2146, 4-23-1992; Ord. No. 3605, § 3, 1-24-2008)

The following criteria shall be required for all replacement trees:

Tree stock, in which the method of preparation for planting includes reducing the existing root mass by cutting, pruning, spading or other means, including collected and relocated stock, shall be a minimum of one and one-half (1½) inches in diameter as measured one (1) foot above grade and be a minimum of eight (8) feet in overall height. (Ord. No. 2146, 4-23-1992; Ord. No. 3605, § 3, 1-24-2008)

Tree stock, in which the root mass is allowed to grow complete and intact to a reasonable degree, including container and grow bag grown, shall be a minimum of one and one-quarter (1¼) inches caliper as measured one (1) foot above grade and be a minimum of eight (8) feet in overall height. (Ord. No. 2146, 4-23-1992; Ord. No. 3605, § 3, 1-24-2008)

The replacement will be from the same category of tree that is destroyed. That is, a canopy tree will be replaced with a canopy tree, an intermediate tree will be replaced with an intermediate tree and an understory tree will be replaced with an understory tree. Palms are considered understory trees for the purpose of replacement. However, when palms are used to replace understory trees, three (3) palms must be planted for each understory tree. (Ord. 1825, 1-26-89; Ord. 2146, 4-23-92; Ord. No. 3605, § 3, 1-24-2008)

- (B) Where other native understory vegetation, wetland areas, protected upland areas, and significant wildlife habitat areas have been cut down, damaged, hatracked, poisoned or in any other manner destroyed or altered, or where development of property has otherwise occurred in violation of this Article, the owner of the property will be required to satisfy all conditions of Section 18-408, Relocation and Replacement, of the Land Development Code, which pertain to the pre-development site conditions, of this lot or parcel. In addition to any other penalties provided herein, the City Manager or

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his designee will evaluate and specify steps which must be taken to correct the violations. (Ord. No. 2039, 8-23-1990; Ord. No. 2146, 4-23-1992; Ord. No. 3605, § 3, 1-24-2008)

#### **Sec. 18-416. PENALTIES.**

Any person, organization, society, association, or corporation, or any agent, contractor, or representative thereof, who shall violate the provisions of this Article 4 of the Land Development Code shall be subject, upon conviction, in a court of competent jurisdiction, to a fine not exceeding the sum of Five Hundred Dollars (\$500.00), or imprisonment for a period not exceeding sixty (60) days, or by both such fine and imprisonment. In any prosecution under this Article 4 of the Land Development Code for the removal of a tree without a permit, each tree so removed will constitute a separate offense. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

#### **Sec. 18-417. APPEALS AND VARIANCES.**

Any person adversely affected by a decision of the City Manager, or his designee in the enforcement or interpretation of any of the terms or provisions of this Article may appeal such decision to the Board of Adjustment. The Board of Adjustment may authorize upon written request, such variance from the terms of this Chapter as will not be contrary to the public interest where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in undue hardship. In granting any variance, the Board of Adjustment may prescribe appropriate conditions as safeguards. Violation of such conditions or safeguards, when made a part of the terms under which the variance is granted shall be deemed a violation of this Article. Such appeal or request for variance shall be made by filing written notice thereof with the City Manager, or his designee, with a copy to the Board of Adjustment, within ten (10) days after the decision to be appealed is made by the City Manager, or his designee. Each such appeal or request for variance shall be accompanied by payment of a fee in the amount of Twenty-Five Dollars (\$25.00). Each such appeal or request for variance shall be determined by the Board of Adjustment after a Public Hearing. (Ord. No. 2039, 8-23-1990)

#### **Sec. 18-418. WITHHOLDING OF CERTIFICATE OF OCCUPANCY.**

The City Manager or his designee, may withhold the issuance of the required Certificate of Occupancy, or permits and inspections, on any development as required until the provisions of this Article 4 of the Land Development Code, including conditions of any permits issued under this regulation, have been fully met. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

#### **Sec. 18-419. SEVERABILITY.**

Should any part or provision of this Article 4 of the Land Development Code be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of this Article 4 of the Land Development Code as a whole, or any part thereof, other than the part declared to be invalid. (Ord. No. 687, 9-26-1974; Ord. No. 798, 9-23-1976; Ord. No. 954, 3-22-1979; Ord. No. 1274, 6-23-1983)

#### **Sec. 18-420. FEES.**

No application for tree removal, land clearing and/or grubbing shall be accepted until the applicable fee has been paid in full. (Ord. No. 2310, 2-23-1995)

The following fee schedule is hereby adopted:

#### LIVE TREE REMOVAL

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Single/duplex-family lot .....\$ 20.00

Single/duplex subdivision, per acre or fraction thereof .....40.00

Multifamily lot, one (1) acre or less .....20.00

Multifamily lot, more than one (1) acre .....40.00

Multifamily subdivision, per acre or fraction thereof .....40.00

Office/commercial lot, one (1) acre or less .....20.00

Office/commercial lot, more than one (1) acre .....40.00

Office/commercial subdivision, per acre or fraction thereof .....40.00

Industrial lot, one (1) acre or less .....20.00

Industrial lot, more than one (1) acre .....40.00

Industrial subdivision, per acre or fraction thereof .....40.00

Land clearing/grubbing, per acre or fraction thereof .....40.00

There shall be no tree removal fee for dead or hazardous\* trees or trees causing noncorrectable damage to structures. However, prior to the removal of any of these trees, an inspection and appropriate permit will be required. (Ord. No. 1825, 1-26-1989; Ord. No. 2310, 2-23-1995)

\*Coder, Dr. Kim D. (1990). Hazard Tree Evaluation. Proceedings of the Urban Forestry Institute; the Urban Forest; Planning, Management, and Policy (Section III). IFAS, University of Florida.\*