



Code of Ordinances Chapter 23
Protection of Trees and The Natural Environment

TREE REMOVAL PERMIT
TRAINING GUIDE

FOR TREE SERVICES AND CONTRACTORS





Code of Ordinances Chapter 23 Training Guide

Protection of Trees and the Natural Environment



This summary provides a general overview of *ORDINANCE CHAPTER 23 - PROTECTION OF TREES AND THE NATURAL ENVIRONMENT*. Tree services and contractors are encouraged to read the full chapter on the City of Atlantic Beach website here:

https://library.municode.com/fl/atlantic_beach/codes/code_of_ordinances

This overview is intended to be used as an education tool. It does not in any way replace or supplement Ordinance Chapter 23.



Code of Ordinances Chapter 23 Training Guide

Protection of Trees and the Natural Environment



The maritime forest in Atlantic Beach is core to the city's identity as a small coastal village.

The tree canopy provides a home for wildlife, functions as an element of the water management system, enhances property values, and adds to the beautification of the city.

It is in the best interest for citizens to be the stewards of the tree canopy through advocacy, assessment, maintenance, planting and preservation of this natural resource. The City of Atlantic Beach is dedicated to protecting this valuable resource for all current and future residents of our community.

The City and the Environmental Stewardship Committee developed the Tree Removal Permit to protect and preserve our trees and natural environment.



Code of Ordinances Chapter 23 Training Guide

Protection of Trees and the Natural Environment



The trees of Atlantic Beach do more than just add to the charm of our community.

- Trees provide storm water protection by absorbing water.
- Trees help us spend less on energy — up to 50% less on air conditioning — and their shade can make our homes 6° - 8° cooler.
- Trees dissipate wind to protect other trees and homes.
- Trees increase property values — 1 mature tree can add \$10,000 to the price of a home.
- Trees help support resilience and increase the overall economic value of our community.



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Protection of Trees and the Natural Environment



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ARTICLE I – In General



Section 23-1 – Purpose and Intent

Purpose: To enhance, conserve, restore, protect and preserve the natural environment, specifically related to trees canopy, stratified understory and native coastal dune vegetation. Priority is given to the protection and preservation of existing resources.

Intent:

1. To establish procedures, regulations and guidelines for the protection of the natural environment.
2. To promote and sustain community values by providing for an aesthetically pleasing environment where a healthy maritime forest is maintained and regenerated.
3. To protect natural systems and avoid impairment of their natural functions.
4. To protect environmentally sensitive areas.
5. To protect healthy trees and replace and/or relocate trees removed during construction or development.
6. Priority is given to the protection and preservation of existing trees and the natural environment.



Code of Ordinances Chapter 23 Training Guide

ARTICLE I – In General



Section 23-2. – Applicability

This chapter applies to all lands within the City of Atlantic Beach.

Section 23-3 – Relationship to Land Development Regulations and the Comprehensive Plan

The provisions in this chapter are intended to implement the policies set forth in the Atlantic Beach comprehensive plan. The provisions are implemented in coordination with Land Development Regulations, and in the case of any conflict between the 2 chapters, the provisions establishing the higher standard prevails.

Section 23-4 – Amendments to This Chapter

The city commission can amend this chapter as needed to implement its intent or objectives and policies of the comprehensive plan, or otherwise enact updates.



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ARTICLE II – Language and Definitions



Definitions for specific terms

can be found in Section 23-8 of Chapter 23.

[<https://coab.us/DocumentCenter/View/13109/Chapter-23-Redline-62921-clean>]



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 1 – IN GENERAL

Section 23-11 – Scope

The provisions of this chapter are administered as set forth within this chapter. Administrative procedures, authorities and responsibilities of the city commission and the administrator are set forth herein.

DIVISION 2 – ADMINISTRATION

Section 23-12 – City Commission

The city commission establishes fees and fines; establishes a tree conservation trust fund; hears and decides appeals; and amends the ordinance as needed to accomplish its purpose and intent.

Section 23-13 – Administrator

The administrator issues notices; reviews applications; conducts inspections; issues tree removal permits; processes, appeals and stop work orders, and performs other administrative actions.



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 2 - ADMINISTRATION

Section 23-14 – Tree Conservation Fund

This fund uses mitigation fees for the planting, protection and conservation of trees, or the re-establishment of vegetation.

Priority is given to planting along public rights-of-way, on public properties, or private properties adjoining the ROW, that will provide shade, enhancement or the re-establishment of tree canopy. Property owners are responsible for maintenance of trees planted on private property.

Funds can also be used to purchase materials or equipment necessary for Chapter 23 goals, or for funding community educational programs for promoting, enhancing or implementing the goals.





Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-21 – Permits Required

Removal of regulated trees and vegetation requires a permit. Any tree that has a DBH of 8" or more on private property, or of any DBH (Diameter at Breast Height) on public property, and that is not listed on the AB Prohibited Species List is a regulated tree. Requirements are not intended to restrict property owner's rights or preempt state statutes.

Section 23-22 - Exemptions From the Requirement For a Permit

The following activities are exempt from the requirements for a tree removal permit. Those claiming any exemption have the burden of proving entitlement to such exemption. Verification by a certified arborist may be required.

- 1. Emergency situation**--Trees damaged because of an emergency (act of nature) if permitting requirements will hamper restoration work and endanger the public.
- 2. Safety hazard**--Trees that pose imminent danger to the public if immediate removal without delay is required.
- 3. Disease or infestation**—Trees that are diseased or pest-infested if removal is needed to prevent the spread of disease or pests.



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

TREE REMOVAL PERMIT APPLICATION
City of Atlantic Beach
Community Development Department
800 Seminole Road Atlantic Beach, FL 32233
(P) 904-247-5800

**PERMIT REQUIRED FOR REMOVAL
OF TREES 8 INCHES DIAMETER AT
BREAST HEIGHT AND GREATER**

FOR INTERNAL OFFICE USE ONLY

CLASSIFICATION _____
PERMIT # _____

Single- / Two-Family Residential \$125.00
 Multi-Family Residential \$250.00
 Commercial / Industrial \$250.00
 Institutional / Other Non-Residential \$250.00

SITE INFORMATION
ADDRESS _____

APPLICANT INFORMATION
NAME _____ OWNER LEGAL AUTHORIZED AGENT
ADDRESS _____ CITY _____ STATE _____ ZIP CODE _____
PHONE # _____ EMAIL _____

TREE REMOVAL PERMIT APPLICATION PACKAGE CHECKLIST
PLEASE ATTACH THE FOLLOWING EXHIBITS:

*Additional information may be required, depending upon circumstances unique to individual applications

EXHIBIT A - TREE PERMITTING PROCESS
 EXHIBIT B (Option 1) - PROOF OF OWNERSHIP: Copy of Warranty Deed that verifies record of owner (Clerk of Courts)
 EXHIBIT B (Option 2) - LETTER OF AUTHORIZATION: Please complete if the applicant is not the owner
 EXHIBIT C - TREE INVENTORY and SITE PLAN
 EXHIBIT D - TREE WORKSHEET

I HEREBY CERTIFY THAT ALL INFORMATION PROVIDED IN THIS APPLICATION IS CORRECT. I AGREE TO COMPLY WITH ALL PROVISIONS OF CHAPTER 23 (PROTECTION OF TREES AND NATURAL VEGETATION) AND ALL OTHER APPLICABLE CODES AND ORDINANCES OF THE CITY OF ATLANTIC BEACH.

SIGNATURE OF OWNER or AGENT _____ PRINT OR TYPE NAME _____ DATE _____
Signed and sworn before me on this _____ day of _____, _____ by _____ State of _____
County of _____
Identification verified: _____
Oath Sworn: Yes No _____
Notary Signature _____
My Commission expires _____

02 TREE REMOVAL PERMIT APPLICATION 08.05.2021



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-22 - Exemptions From the Requirement For a Permit (continued)

4. **Noxious invasive trees**—Trees that are listed as invasive or a nuisance after inspection by an authority.
5. **Utility operations**—Trees in areas of existing or planned lines or facilities, to be removed by authorized companies, avoiding unnecessary removal.
6. **Surveyors/engineers**—Trees (other than regulated trees) blocking access for professional surveys or site examinations providing alteration is limited to a swath of ten (10) feet or less in width.
7. **City crews**—Trees that the City removes within public rights-of-way, utility or drainage easements or the illumination areas of streetlights, and other public lands as necessary.
8. **Applicable exemptions according to state statutes.**



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-23 - Permit Procedures

A. Application required--The applicant submits the fee with the completed application form to the designated administrative department. If the applicant is not the property owner, the owner's authorization will also be required.

- 1. Existing lots or parcels**-- Applications must be made prior to removal and prior to any site disturbance.
- 2. New or re-platted subdivisions**--Applications that will be part of a new subdivision must be submitted along with the preliminary subdivision plat application. Trees to be protected must be noted on the final subdivision plat, and subsequent applications for individual lots or parcels.
- 3. After-the-fact permits**--Removal of regulated trees or vegetation prior to obtaining a permit will require obtaining an after-the-fact permit and meeting all mitigation requirements.

<p>EXHIBIT A: TREE PERMITTING PROCESS City of Atlantic Beach Community Development Department 800 Seminole Road Atlantic Beach, FL 32233 (P) 904-247-5800</p> <p>This document provides a general guide of the tree removal permitting process. For complete information on permitting procedures see Section 23-23. Please sign the bottom of this page to <u>certify</u> that you have read this document and understand the permitting process.</p> <p>BEFORE PERMIT ISSUANCE</p> <ol style="list-style-type: none">1. Submit Completed Application<ul style="list-style-type: none">• All trees on property must be labeled on Exhibits C and D.2. Schedule Inspections<ul style="list-style-type: none">• All trees to be removed must be labeled with red or orange tape or ribbon and numbered per Exhibit C.• If there is construction on property, a barricade inspection will also be done at this time.• Call for more information at (904) 247-5847.3. Mitigation Assessment<ul style="list-style-type: none">• Mitigation shall be in the form of preservation or relocation of existing trees, replacement with new trees or payment into the tree fund. See Section 23-33 for more information.• Staff will review the trees proposed for removal and send the applicant a Tree Permit Calculations sheet which outlines mitigation that is owed.4. Proposed Mitigation Replacement Plan<ul style="list-style-type: none">• Submit a mitigation replacement plan within 30 days of receiving the mitigation calculations.• The proposed plan must include a site plan, proposed species, and size(s). Plans must account for all inches owed.• A MITIGATION PLAN MUST BE SUBMITTED AND APPROVED PRIOR TO REMOVAL OF IDENTIFIED TREES. <p>AFTER PERMIT ISSUANCE</p> <ol style="list-style-type: none">5. Permit Issuance<ul style="list-style-type: none">• When the permit is approved, staff will place a sign in the yard and contact the applicant. This sign must remain until the permit is finalized.• If paying for mitigation, payment must be made within 7 days following the issuance of the permit.6. Mitigation Replacement<ul style="list-style-type: none">• Replacement trees must be planted within 30 days of permit issuance or prior to issuance of a Certificate of Occupancy or Certificate of Completion.7. Final Inspection<ul style="list-style-type: none">• After trees are planted and/or construction is complete, a final inspection must be scheduled.• Trees planted, preserved and relocated must survive three (3) years following the date the permit is finalized. <p>SIGNATURE OF APPLICANT PRINT OR TYPE NAME DATE</p> <p>02 TREE REMOVAL PERMIT APPLICATION - EXHIBIT A: Tree Permitting Process 08.05.2021</p>		
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Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-23 - Permit Procedures (continued)

B. Sufficiency review of applications--Upon receipt of the application and fee:

1. The administrator will conduct a review within 5 business days and inform the applicant of any deficient items.
2. The administrator will upload the application to the website within 3 business days once complete information is received.
3. The ESC Tree Subcommittee will review the application.
4. One member of the Subcommittee may observe the initial site inspection.
5. The applicant will be notified if extended review is required.
6. The application will be deemed abandoned 30 days after notification of any deficiencies if the applicant fails to submit all required information. One 30-day extension may be granted upon written justification by the applicant. At the expiration of the extension, the application is void and fees will not be refunded.



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ARTICLE III – Tree and Vegetation Regulations & Permits

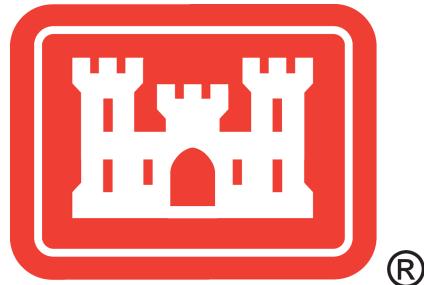


DIVISION 3 - PERMITS

Section 23-23 - Permit Procedures (continued)

C. Review by other agencies--At the discretion of the administrator, relative to the environmental sensitivity of the site, consents from the local agencies below may be required prior to tree or vegetation removal. The applicant will obtain this information and submit the agencies' written verification to the city.

1. Army Corp of Engineers
2. Saint Johns River Water Management District
3. Florida Department of Environmental Protection
4. Any other applicable governmental agencies extending jurisdiction over the site





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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-23 - Permit Procedures (continued)

- D. Compliance review and approval of applications**—on completion of review and inspections, the administrator will send a notice of intent to issue a tree permit to the applicant and the ESC Tree Subcommittee, and then upload the draft permit to the city’s website. The permit is effective 5 business days after the notice of intent is distributed.
- E. Expiration of permits**—The permit will expire if work doesn’t commence within six 6 months of the date of issuance. If the tree removal permit is in connection with a development permit, compliance with the tree removal permit will be determined before the development’s final inspection, or issuance of Certificate of Completion or Certificate of Occupancy, as applicable.



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-23 - Permit Procedures (continued)

F. Content of permits--The permit will detail the conditions and identify which land areas can be cleared and/or which trees are permitted to be removed. One permit may cover several trees as long as the trees can be clearly identified. No permit will be issued for more than one area of land unless they are contiguous to one another and considered as one parcel for the purpose of development.

EXHIBIT C: TREE INVENTORY and SITE PLAN

CITY OF ATLANTIC BEACH, FLORIDA
Community Development Department
800 Seminole Road Atlantic Beach, FL 32233
(P) 904-247-5800

SAMPLE

FOR INTERNAL OFFICE USE ONLY

CLASSIFICATION _____
PERMIT # _____

TREE INVENTORY-Please sketch an inventory in the area below or attach a site plan showing all existing trees on the property below that are 8" diameter at breast height (dbh) and greater. Please complete the following:

● Show the location of all trees to be removed with an "X"
● Show the location of all trees to be preserved with "["]"
● Show the location of all trees to be relocated with an "O"
● Show all existing and/or proposed buildings
● Number all trees and list on EXHIBIT D: Tree Worksheet

PROPOSED DECK AND POOL

EXISTING HOUSE

SEMINOLE ROAD

PREPARED BY: _____

SCALE: 1 SQUARE = _____

02 TREE REMOVAL PERMIT APPLICATION - EXHIBIT C: Tree Inventory and Site Plan 08.05.2021



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-23 - Permit Procedures (continued)

F. Posting of permits--The permit must be posted in a visible place at the front of the property prior to any tree removal. The permit must be posted on the property during all removal activity and until final inspection by the city.





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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-23 - Permit Procedures (continued)

H. Amendment of permits--Requests for minor changes to plans can be made as an amendment to the permit. Review time for any changes to approved plans will be the same as that of a new application. An amendment to a permit does not extend the expiration date.

Substantial changes are not amendments and will require a new permit application and fee. These may include:

- increases in the number of trees to be removed or land to be cleared
- increases in impervious surface area
- changes to intended land use
- modification of stormwater management systems
- major modification to a site plan



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-23 - Permit Procedures (continued)

I. Revocation of permits

1. The administrator may revoke any permit issued, following notice in writing and after providing the applicant opportunity to respond to the notice, in either of the following circumstances:
 - a. The permittee has continued with development on a site for which a permit was issued but is under a stop work order
 - b. It is found that permit approval was based on incorrect information furnished by the applicant for the permit.
2. Revocation of a permit may also result in a stop work order.



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-24 - Inspections and Site Preparation

- A. Inspections to be conducted with all development activities:
 - 1. Initial inspection
 - 2. Protective barricade inspection
 - 3. Final inspection and notice of completion
 - 4. Maintenance inspections during the 3-year maintenance period
- B. Site preparation must take place prior to inspection to determine the building site, locate proposed buildings or structures, and to ensure clear understanding among all involved:
 - 1. Display of address or legal description
 - 2. Marked property corners
 - 3. Barricaded all trees to be preserved including root systems
 - 4. Red or orange tape on all trees proposed for removal
 - 5. Blue or green tape on all trees proposed for protection as mitigation for removed trees





Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-25 – Appeals and Variances

- A. Appeals.** Appeals of final decisions may be made by the applicant, the ESC Tree Subcommittee, or an adversely affected party. Any appeal stops all work on the premises unless a stay would cause imminent peril to life or property.
 - 1. Appeals must be filed within 5 business days after rendition, to be taken up by the ESC Tree Subcommittee with notice to public and to interested parties. The Subcommittee will make a recommendation to the Administrator. If the appellant is a member of the Subcommittee, that member will not participate in the decision. The Administrator will issue or deny the permit within 5 business days after the Subcommittee recommendation.



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-25 – Appeals and Variances (continued)

B. Variances. The Community Development Board may grant relief when adherence results in “exceptional practical difficulties or undue hardship”. The Board will determine that granting the request will not cause detriment to the public good and will not be inconsistent with Chapter 23. The applicant has the burden of proof. Any request for a variance will stop all work unless an administrative official certifies that a stay would cause imminent peril to life or property.

1. A request for a variance must contain the following:

- a. A description of the property for which the variance is requested.
- b. A statement describing the reasons and justification for the variance.
- c. A survey or site plan indicating existing, removed, and/or proposed trees; existing and proposed construction, as well as other significant features existing on the lot.
- d. Notarized authorization by the owner for the agent.



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-25 – Appeals and Variances (*continued*)

B. Variances

2. Upon receipt of the request for variance, the Administrator will schedule a public hearing before the Community Development Board. At the public hearing, the applicant may appear in person and/or may be represented by an authorized agent.
 - a. Applications for a variance are considered on a case-by-case basis and approved only if the request is consistent with the definition of a variance.
 - b. Variances are not granted solely for personal comfort or convenience, for relief from financial circumstances, or for relief from situations created by the property owner.



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-25 – Appeals and Variances (*continued*)

B. Variances

- 3. Grounds for approval of a variance.** The Community Development Board will approve a variance only if 1 or more of the following factors exist:
 - a. Topographic elevation changes that would prevent preserved or planted materials survival.
 - b. Electrical lines or utility easements that prevent or restrict the preservation or planting of landscape materials.
 - c. Barrier island or dune ecosystem planting conditions that can't support certain hardwood species.
 - d. Designs and plans that, to the greatest extent feasible, avoid encroachment upon preservation areas and/or trees.



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-25 – Appeals and Variances (continued)

B. Variances

- 4. Approval of a variance.** In granting a variance, the Community Development Board may prescribe appropriate conditions to maintain consistency with City codes. Violation of such conditions will be deemed a violation of chapter 23.
- 5. Approval of lesser variances.** The Board can approve a lesser variance than requested if it deems a lesser variance more appropriate.
- 6. Nearby nonconformity.** Nonconforming characteristics of nearby lands, structures or buildings are not grounds for approval of a variance.
- 7. Waiting period for re-submittal.** If an application for a variance is denied by the Board, no further action on another application for substantially the same request on the same property will be accepted for 1 year from the date of denial.



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-25 – Appeals and Variances (continued)

B. Variances

8. **Time period to implement variance.** Unless otherwise stipulated, the work to be performed for a variance must begin within 1 year of variance approval. The Planning & Community Development Director may authorize a 1-time extension if the building permit is active.
9. **Appeals of a decision** by the Community Development Board may be made to the city commission by any adversely affected person(s) or city staff. Appeals must be filed in writing with the city clerk within 30 days. The appellant must present a verified petition stating that the decision conflicts with Chapter 23 and specifying the grounds of the conflict. A new public hearing will be scheduled within 10 business days after the appeal is filed.



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 3 - PERMITS

Section 23-26 – Fees

A. Application fees are payable when an application is submitted for approval, amendment, extension, re-inspection, or appeal.

1. Tree removal permit application

Fees cover application review, and 1 initial inspection, 1 protective barricade inspection, 1 final inspection and 1 maintenance inspection per year.

a. Single- or two-family residential uses (per lot) \$125.00

b. Multifamily residential, commercial, industrial,

institutional and any other uses \$250.00

2. Extensions \$50.00

3. Appeals \$125.00

4. Variances \$300.00

5. Reinspection fees \$50.00

6. Research or extensive time fees (per hour) \$50.00



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 4 - GENERAL PROVISIONS

Section 23-30 - Minimum Tree Requirements

Credit will be given for trees on the Atlantic Beach Recommended Species List, but none will be given for trees on the Atlantic Beach Prohibited Species List.

- 1. Residential uses.** One minimum 4" caliper tree planted and/or preserved for every 2,500 sq ft of development parcel area with one shade tree preserved within the front yard. A cluster of 3 palm trees may be used instead of a single shade tree on oceanfront lots only.
- 2. Commercial uses.** One minimum 4"caliper tree planted and/or preserved for every 8,000 sq ft of parcel area.
- 3. Industrial uses.** One minimum 4"caliper tree planted and/or preserved for every 10,000 sq ft of parcel area.
- 4. Public/semi-public (governmental or institutional) uses.** One minimum 4" caliper tree must be planted and/or preserved for every 10,000 sq ft of parcel area.



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 4 - GENERAL PROVISIONS

Section 23-31 - General Prohibitions

Except as provided in Sections 23-21 and 23-22, it is unlawful for any person to engage in the following:

- a. **Excessive or improper pruning** on trees where such trees are part of a tree protection plan. Trees intended for shade purposes must be allowed to reach their mature canopy spread.
- b. **Pruning or removal of city trees** within the city's rights-of-way or upon city property without the permission of the city.
- c. **Tree poisoning, girding or spiking** or inserting reactive material, metal or chemicals into a tree.
- d. **Attachments** such as signs, permits, nails or spikes having a diameter of 3" or more caliper, except when used to support a tree.
- e. **Unauthorized clearing of lots** such that the minimum requirements of section 23-30 are not maintained.



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 4 - GENERAL PROVISIONS

Section 23-32 - Tree Protection During Development and Construction

Property owners and agents must ensure that the measures described in this Section are complied with in order to protect all regulated trees that may be impacted by development whether a tree removal permit is required or not.

A. Restrictions during construction

It is unlawful for any person to engage in the following:

1. Place or pass materials, machinery, or temporary soils within the tree protection zone of any tree or group of trees to be preserved.
2. Dispose of waste materials such as paint, oil, solvents, asphalt, concrete, or mortar on any private property; or place or dispose of waste materials or any material harmful to the life of a tree within the tree protection zone of any tree or groups of trees or where planting beds are to be situated.





Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 4 - GENERAL PROVISIONS

Section 23-32 - Tree Protection During Development and Construction (continued)

B. Burden of tree protection on property owner. Owners and their agents must ensure that any tree for which a tree removal permit has not been obtained is protected. The property owner must guarantee survival of retained trees and replacement trees for 3 years or longer from the date the city accepts the trees and landscaping as complete. Any preserved, relocated or replaced tree that dies during that time period must be replaced by the owner.



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 4 - GENERAL PROVISIONS

Section 23-32 - Tree Protection During Development and Construction

(continued)

C. Protective barriers and signage required prior to commencement of construction, in compliance with the guidelines in the Tree Protection Guide for Builders and Developers. [link]

1. Temporary protective barriers must be placed at least 6' from the base of any tree and must encompass at least 50% of the area under the dripline of any tree or trees.
2. Temporary protective barriers must be at least 3' high, consisting of either a wood fence with 2x4 posts placed 8' apart with a 2x4 top rail, or a mesh fence, or similar barrier.

D. Adjacent properties. Owners and their agents must ensure protective barricading of all regulated trees located on adjacent properties that may potentially be impacted by development activities.



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



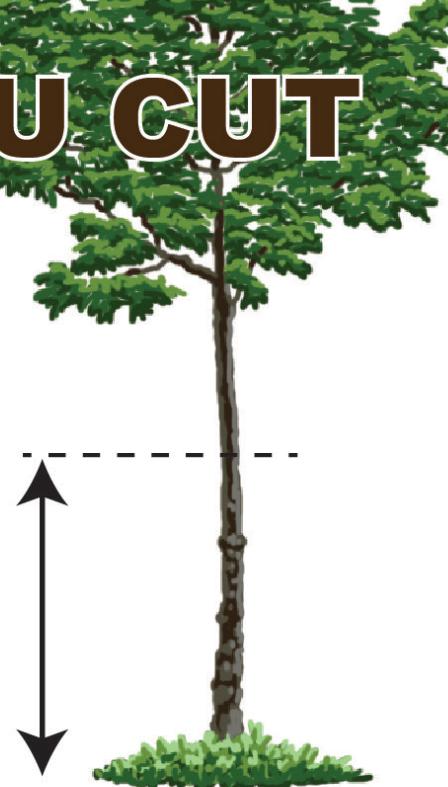
DIVISION 4 - GENERAL PROVISIONS

Section 23-33 - Mitigation To Be Assessed

CALL BEFORE YOU CUT

Removing any tree with a trunk 8" in diameter or larger may require a permit!

Measure the trunk diameter (width) at 48" high.
If the tree forks below that, combine the widths of each trunk.
The circumference (around the trunk) must be less than 25".

A diagram of a tree trunk. A horizontal dashed line extends from the top of the trunk to the right. A vertical double-headed arrow is positioned below this line, indicating the height at which the trunk diameter is measured. The trunk is brown with some horizontal lichen or bark texture. The base of the trunk is surrounded by a small patch of green grass.



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 4 - GENERAL PROVISIONS

Section 23-33 - Mitigation To Be Assessed (continued)

- A. **Mitigation required.** Replacement or relocation are the preferred methods of mitigation. Unless payment into the Tree Fund has been approved, mitigation in the form of tree replacement, relocation or preservation is required.
- B. **Mitigation assessment.** According to the ratios given in the following table, the number of inches removed are proportional to the number of inches replaced, relocated or preserved.



Code of Ordinances Chapter 23 Training Guide

ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 4 - GENERAL PROVISIONS

Section 23-33 - Mitigation To Be Assessed (continued)

Standard Mitigation Assessment (ratio is inches removed : inches owed)

CLASSIFICATION OF PROPERTY/PROJECTS	CATEGORY OF REGULATED TREE			
	DBH less than 14"	DBH equal to or greater than 14" and less than 30"	DBH of 30" or greater	Heritage Trees
Vacant lot (1)	1 : 0.5	1 : 0.5	1 : 1	1 : 2.5
Developed lot (2)	1 : 0.5	1 : 1	1 : 2	1 : 3
New construction (3)	1 : 1.5	1 : 2	1 : 3	1 : 4
Public property	1 : 1.5	1 : 2	1 : 3	1 : 4
Environmentally sensitive areas (4)	1 : 2	1 : 2	1 : 3	1 : 4
Historic corridor (5)	1 : 2	1 : 2	1 : 3	1 : 4



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DIVISION 4 - GENERAL PROVISIONS

Section 23-33 - Mitigation To Be Assessed (continued)

Classification of Property/Projects

Where a property falls under the definition of a vacant lot and new construction, the mitigation requirements for a vacant lot apply.

1. **“Vacant lot”** -- Property not previously developed or a property where all structures were removed more than 20 years before application.
2. **“Developed lot”** -- Parcel where any structure, pavement or stormwater facility exists or is proposed but isn’t defined as new construction or vacant lot.
3. **“New construction”** -- Construction of a new principal building on lots that have an active permit for demolition of the building, where the building has been demolished but no building permit has been issued, and where trees are proposed to be removed or relocated in preparation for demolition or development of a building. This does not include construction proposed on vacant lots.



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DIVISION 4 - GENERAL PROVISIONS

Section 23-33 - Mitigation To Be Assessed (continued)

Classification of Property/Projects

- 4. “Environmentally sensitive areas”** -- Lands, waters or areas that meet one or more of the following:
 - a. Wetlands regulated by FDEP, the U.S. Army Corps of Engineers, or SJRWMD
 - b. Estuaries or estuarine systems
 - c. Outstanding Florida Waters as designated by the State and natural water bodies
 - d. Areas under the Federal Coastal Barrier Resource Act, and those beach and dune areas seaward of the coastal construction control line
 - e. Areas designated as conservation on the future land use map
 - f. Essential habitat to listed species as determined by the Florida Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, the U.S. Fish and Wildlife Service, and the FDEP.
- 5. “Historic corridor”** – A tree-lined roadway with special historic, architectural, or cultural value to the citizens of the City as declared by the City Commission.



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DIVISION 4 - GENERAL PROVISIONS

Section 23-33 - Mitigation To Be Assessed (continued)

- C. General conditions.** Mitigation by preserving existing trees, relocating existing trees that would otherwise be removed, or replacing with new trees, must occur within 30 days or less. The applicant assumes all duties and costs associated with mitigation.
- D. Tree preservation.** Existing onsite trees that are 3" DBH or greater and not protected or transplanted may be used as credit towards the assessed mitigation, if preserved onsite.
- E. Tree relocation.** Existing trees onsite that are 3" DBH or greater and would otherwise be removed from the site because of development may be used as credit towards the assessed mitigation, if relocated onsite.



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DIVISION 4 - GENERAL PROVISIONS

Section 23-33 - Mitigation To Be Assessed (continued)

F. Tree replacement.

1. Replacement quality and size. Replacement trees must be the same quality of "Florida Number One", as defined in the most current *Grades and Standards for Nursery Plants*.
 - a. Oaks have a minimum 4" caliper and 12 ft height at time of installation.
 - b. All other new replacement trees have a minimum 2" caliper and 10 ft height at time of installation.
 - c. Palms have a minimum clear trunk height of 8' at time of installation.
 - d. Replacement shade trees must yield a crown spread of at least 30' and be chosen from the *Atlantic Beach Recommended Species List*. Alternate species may be used if approved and not on included on the *Atlantic Beach Prohibited Species List*.
 - e. If the owner can't accommodate mitigation on site, they can get replacement credit for planting trees on adjacent property or, if the owner's lot is vacant, on private property within ¼ mile. It must be proven that a site can't fit replacement plantings, and a signed letter from the owner of the property accepting off-site plantings is required.



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DIVISION 4 - GENERAL PROVISIONS

Section 23-33 - Mitigation To Be Assessed (continued)

F. Tree replacement.

1. Replacement quality and size.
 - f. Atlantic Beach Recommended Tree List

The following list is based on hardiness, disease and pest resistance, availability, and size variance of trees. To receive mitigation credit, replacement trees must be selected from the list unless otherwise approved.



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CITY OF ATLANTIC BEACH RECOMMENDED TREE LIST

SHADE TREES

Ash, Green (*Fraxinus pennsylvanica*)
Ash, Water (*Fraxinus caroliniana*)
Bay, Loblolly (*Gordonia lasianthus*)
Cedar, Southern Red (*Juniperus silicicola*)
Cypress, Bald (*Taxodium distichum*)
Cypress, Pond (*Taxodium ascendens*)
Elm, American (*Ulmus americana*)
Elm, Florida (*Ulmus american floridana*)
Hickory, Mockernut (*Carya Tomentosa*)
Hickory, Pecan (*Carya illinoensis*)
Hickory, Pignut (*Carya glabra*)
Hickory, Water (*Carya aquatica*)
Loquat, Japanese Plum (*Eriobotrya japonica*)
Magnolia, Southern (*Magnolia grandiflora*)

Magnolia, Sweetbay (*Magnolia virginiana*)
Maple, Florida (*Acer barbatum*)
Maple, Red (*Acer rubrum*)
Oak, Live (*Quercus virginiana*)
Oak, Shumard Red (*Quercus shumardii*)
Oak, Swamp Chesnut (*Quercus michauxii*)
Pine, Loblolly (*Pinus taeda*)
Pine, Long-leaf (*Pinus palustris*)
Pine, Pond (*Pinus serotina*)
Pine, Slash (*Pinus elliottii*)
Sugarberry (*Celtis laevigata*)
Sweetgum (*Liquidambar styraciflua*)
Sycamore (*Platanus occidentalis*)
Tupelo (*Nyssa sylvatica*)



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CITY OF ATLANTIC BEACH RECOMMENDED TREE LIST (continued)

PALM TREES

- Palm, Cabbage (Sabal palmetto)
- Palm, Canary Island Date (Phoenix canariensis)
- Palm, Pindo (Butia capitata)
- Palm, Sylvester Date Palm (Phoenix sylvestris)
- Palm, Washington (Washingtonia robusta)



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CITY OF ATLANTIC BEACH RECOMMENDED TREE LIST (continued)

UNDERSTORY OR ORNAMENTAL TREES

Cedar, Red (*Juniperus virginiana*)

Crape Myrtle (*Lagerstroemia indica*)

Elm, Winged (*Ulmus alata*)

Holly, American (*Ilex opaca*)

Holly, Dahoon (*Ilex cassine*)

Holly, East Palatka (*Ilex attenuate*)

Holly, Yaupon (*Ilex vomitoria*)

Oak, Myrtle (*Quercus myrtifolia*)

Oak, Sand Live (*Quercus geminata*)

Podocarpus, Yew (*Podocarpus macrophyllus*)

Privet, Glossy (*Ligustrum lucidum*)

Privet, Japanese (*Ligustrum japonicum*)

Redbud (*Cercis canadensis*)

Wax Myrtle (*Myrica cerifera*)



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 4 - GENERAL PROVISIONS

Section 23-33 - Mitigation To Be Assessed (continued)

F. Tree replacement

2. Selection Criteria
 - a. New oaks must be used to replace removed oaks unless payment is made to the Tree Fund.
 - b. New palm trees may only be used to replace removed palms.
 - c. Designated Maritime Species trees must be replaced by Designated Maritime Species, not limited to the same species. When a Maritime tree is removed, at least 25% of mitigation must be provided in the form of replacement. Incentive credit will be given when Maritime trees replace protected trees that are not Maritime trees. The incentive credit is equal to 2x the normal replacement credit.



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DESIGNATED MARITIME SPECIES

- 1. Bald Cypress** (*Taxodium distichum*)
- 2. Cedar** (*Juniperus siliciola*) (Southern Red Cedar), *J. virginiana* (Eastern Red Cedar)
- 3. Elm** (*Ulmus alata*) (Winged Elm), *Ulmus American floridana* (Florida Elm),
- 4. Live Oak** (*Quercus virginiana*)
- 5. Hickory** (*Carya Illinoensis*) (Pecan), *C. tomentosa* (Mockernut), *C glabra* (Pignut Hickory)
- 6. Loblolly Bay** (*Gordonia lasianthus*)
- 7. Magnolia** (*Magnolia grandiflora*) (Southern Magnolia) *Magnolia virginiana* (Sweetbay Magnolia)
- 8. Maple** (*Acer rubrum* (Red Maple), *Acer Barbatum* (Florida Maple))
- 9. Tupelo** (*Nyssa sylvatica*)
- 10. Pine** (Loblolly) (*pinus taeda*), (Long-leaf) (*Pinus palustris*), (Pond) (*Pinus Serotina*)



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 4 - GENERAL PROVISIONS

Section 23-33 - Mitigation To Be Assessed (continued)

F. Tree replacement.

3. Placement Criteria

- A. Avoidance of underground utilities.** No trees except those with a mature height less than 30' may be planted within 5 linear ft of the centerline of any utility easement.
- B. Avoidance of above-ground utilities and public facilities.** Except where plans demonstrate no conflict or approval has been granted, no trees may be planted closer to curbs, curb lines, sidewalks or above-ground utilities than the following:
 1. Small trees or palms (mature height of 15' to 30') must be setback at least 3'
 2. Medium trees with (mature height of 30' to 50') must be set back of at least 6'
 3. Large trees (mature height of 50' feet or more) must be set back at least 10'



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 4 - GENERAL PROVISIONS

Section 23-33 - Mitigation To Be Assessed (continued)

F. Tree replacement.

3. Placement Criteria

C. Spacing. The following spacing requirements serve as general guidelines for the optimal growth and viability of trees:

1. Small trees (mature height of 15' to 30') must be spaced at least 10'.
2. Medium trees (mature height of 30' to 50') must be spaced at least 20'.
3. Large trees (mature height of 50' or more) must be spaced at least 30'.
4. Spacing of 2 or more trees of differing sizes is based upon the spacing requirements of the largest tree.

Trees may be planted closer together upon approval.



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 4 - GENERAL PROVISIONS

Section 23-34 – Maintenance and Monitoring Requirements

The owner is responsible for maintaining the health of any preserved, relocated or replaced trees for 3 years from final inspection.

- 1. Determination of success.** The owner will analyze each tree after 3 years and submit analysis to the city within 30 days. If a tree dies or declines within 3 years, the owner must replace the tree within 60 days of that determination. If that replacement tree is not viable after 3 years, the owner may pay the appropriate amount into the tree fund in lieu of planting a third tree.
- 2. Large-scale projects.** If the applicant relocates 10 or more trees, or plants 100 or more replacement trees, determination of success is based on the % of survival. A successful project has at least 90% of the newly planted or relocated trees viable after 3 years. If the project is determined to be successful, additional replacement trees will not be required.



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 4 - GENERAL PROVISIONS

Section 23-37 - Payment in Lieu of Replacement/Relocation

All reasonable methods must be used to replace or relocate trees onsite. Payment to the Tree Fund is reserved for cases where the ability to replace or relocate trees onsite is restricted by circumstances related to regulations or other requirements.

Payments to the tree fund may be approved in accordance with the following provisions:

1. Applicants will replace or relocate required mitigation onsite, except in cases where onsite mitigation is not possible. Upon approval, a permit will be issued, and the balance of the mitigation must be paid prior to permit issuance.
2. Where payment in lieu of replacement or relocation is approved, the applicant will pay the equivalent value of the portion not mitigated. The approved payment must be paid prior to permit issuance.



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 5 – AREAS OF SPECIAL CONCERN

Section 23-40 - Applicability

Certain areas contain trees or vegetation of special value and concern, or areas of such substantial social, cultural, historical, ecological, environmental or economic significance that they may warrant added measures of protection.

Section 23-41 – Historic Corridors and Heritage Trees

This section describes the designation, criteria, documentation, mitigation and protection of historic corridors and heritage trees. The City holds a record of all historic corridor and heritage tree designations and their locations.

Mitigation required for the removal of designated heritage trees and trees within designated historic corridors, shall be at a higher rate than removal of non-designated trees to encourage protection of such irreplaceable trees.

Prior approval of the City Commission is required should any designated corridor or trees be damaged, mutilated or removed from public or private property by any person or entity, public or private, except in the event of an emergency.

Additional information about areas of special concern can be found in Chapter 23.



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 6 – VIOLATIONS, ENFORCEMENT AND PENALTIES

Section 23-46 – Violations

Violations are subject to code enforcement procedures. Examples:

- 1. Development activity.** It is a violation for any person to engage in development or other activity which has the potential to damage or remove any regulated tree or vegetation without complying with provisions in this chapter.
- 2. Compliance with approved permit.** It is a violation for any permit holder to fail to comply with the requirements of the approved permit.
- 3. Compliance with general conditions of permit.** These minimum conditions apply to every permit, and failure to comply is a violation:
 - a. Approved permits and plans must be available onsite during development activity.
 - b. Whenever site work is ongoing, there must be an individual at the site who is responsible for the work and who is familiar with the project. This does not mean that a single individual always remain onsite, only that there is always a designated person in charge.
- 3. Maintenance requirements.** It is a violation for anyone engaged in development activity on the property to fail to comply with the minimum standards and maintenance requirements.



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 6 – VIOLATIONS, ENFORCEMENT AND PENALTIES

Section 23-47 - Notice of Violation

When a violation has occurred, the administrator will issue written notice to the person in violation, identifying the nature and location of the violation and specifying that remedial action is necessary. The applicant will have 7 days after the receipt of notice, or longer if specified, to bring the violation into compliance.



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 6 – VIOLATIONS, ENFORCEMENT AND PENALTIES

Section 23-48 - Stop Work Order

- A. **Authority to stop work.** The City has the authority to issue a stop work order under these circumstances:
 - 1. Land is being cleared without an approved permit or inconsistent with the permit
 - 2. Failure of the applicant to take immediate corrective action when there is a danger to life or property
 - 3. Noncompliant work is not immediately stopped upon receipt of a notice of violation
 - 4. Protection measures have not been maintained and danger to regulated trees may be imminent
 - 5. Remedial work required by notice of violation is not completed in the time specified
 - 6. Failure to post or have the approved permit and plans available onsite



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 6 – VIOLATIONS, ENFORCEMENT AND PENALTIES

Section 23-48 - Stop Work Order (continued)

- B. Content and scope of stop work order.** The stop work order specifies the circumstances that have resulted in the order. It directs that all work be stopped except work necessary to bring the violation into compliance, or specific work, e.g.: land clearing, regulated tree removal, grading, roadway construction, building erection or utility construction. The order may apply to the entire project or to portions of the project.

- C. Failure to comply after notice of violation and stop work order.** If the violator fails to complete the required remedial action within the prescribed time, or continues any development activity, they can expect code enforcement action or other remedies under the law.



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 6 – VIOLATIONS, ENFORCEMENT AND PENALTIES

Section 23-49 - Requirement for Emergency or Immediate Corrective Action

If the applicant's failure to meet permit conditions results in danger or damage to life or property, the City may require immediate corrective action. Protection controls damaged by development activity or other factors must be repaired within 24 hours. If immediate action isn't taken, the City may take corrective actions such as placing a lien on the real property to recover the cost of the corrective measures and revoking any permit issued.

Section 23-50 - Code Enforcement Action

Failure to complete actions required to bring violations into compliance will result in code enforcement action as well as other remedies available under the law.



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 6 – VIOLATIONS, ENFORCEMENT AND PENALTIES

Section 23-51 – Penalties

A. General provisions. Violation of a provision in this chapter is punishable according to the law or findings of the special magistrate.

1. Violations are considered irreparable and irreversible in nature.
2. Each day any violation continues constitutes a separate offense.
3. Each regulated tree removed from a site in violation of these regulations constitutes a separate offense.
4. Each acre or fraction of land cleared in violation of these regulations constitutes a separate offense.
5. People charged with violations of this chapter may include:
 - a. The owner, contractor or any other person using the land or property where violation exists
 - b. Anyone maintaining the land or property where violation exists
 - c. Anyone who knowingly commits, takes part, or assists in violation



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ARTICLE III – Tree and Vegetation Regulations & Permits



DIVISION 6 – VIOLATIONS, ENFORCEMENT AND PENALTIES

Section 23-51 – Penalties (continued)

B. Building permits. No building permit will be issued for a site while any violation exists on the site.

C. Injunction. Any affected people may seek an injunction against a violation and recover from the violator such damages as he/she may suffer.

D. Sanctions for failure to obtain a permit.

1. Regulated trees or vegetation removed in violation require an after-the-fact permit, the fee will be 2x the application fee, and the applicant will immediately stabilize the site and mitigate all damage to the site and adjacent properties.
2. Regulated trees removed in violation will be assessed at 2x the rate of mitigation.



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DIVISION 6 – VIOLATIONS, ENFORCEMENT AND PENALTIES

Section 23-51 – Penalties (continued)

D. Sanctions for failure to obtain a permit.

3. If a site has been cleared so that it can't be determined the number and size of regulated trees removed in violation, analysis will be used to determine the loss of canopy to assess mitigation. A fine of \$5.00/sq ft of canopy lost must be paid to the tree fund within 7 days. No further work or development can proceed until the fine is paid.
4. Anyone exhibiting a history of repeated violations will, upon third offense, be reported to the Florida Department of Business and Professional Regulation, and other authorities governing licensing, registration or certification of individuals or businesses.



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Protection of Trees and the Natural Environment



[Take the Tree Permit Test](#)