

## Chapter 18.5

### TREES

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### **Section 18.5.1 Definitions**

For the purpose of the administration and enforcement of this Chapter, and unless otherwise stated in this Chapter, the following words shall have a meaning as indicated herein:

(a) **Tree:** Any living self-supporting perennial plant whose one main stem attains at least a diameter of three [3] inches or nine [9] inches in circumference, at four and one-half feet [4.5] above ground level and a height of fifteen [15] feet at maturity.

(b) **Street Trees:** Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the City

(c) **Park Trees:** Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

(d) **Regulated Tree:** Any living tree which is eight [8] inches or more in diameter or two [2] feet in circumference, whichever dimension is lesser, at a point four and one-half feet [4½] above ground level. The definition shall include all champion trees regardless of size. Regulated tree(s) shall hereinafter be called “tree” or “trees.”

(e) **Champion Trees:** Those trees that have been identified by the Florida Division of Forestry as being the largest of their species within the State of Florida or by the *American Forestry Association* as the largest of their species in the United States. The current list of champion trees is on file and will be subject to revisions and will be updated yearly at regularly scheduled public meeting of the Trees and Gardens Board.

(f) **Heritage Trees:** Any trees with a diameter of at least thirty [30] inches, or seven feet ten inches in circumference, whichever dimension is lesser, measured at a point four and one-half feet above ground level.

(Ordinance 0903, 06-11-09)

**Cross reference:** *Definitions and rules of construction*

### **Section 18.5.2 Creation and establishment of a City Tree Board**

The Trees and Gardens Board established under Chapter 2, Article II of this code shall serve as the “Tree Board” for purposes of carrying out the requirements of this Chapter.

(Ordinance 0903, 06-11-09)

**Cross reference:** Boards, Committees and Commissions, Chapter 2, Article II.

### **Section 18.5.3 Term of office of Tree Board members**

The term of office and the method for filling vacancies is established under Chapter 2, Article II of this Code.

(Ordinance 0903, 06-11-09)

**Cross reference:** Boards, Committees and Commissions, Chapter 2, Article II.

#### **Section 18.5.4 Compensation of Tree Board members**

Members of the Tree Board shall serve without compensation.  
(Ordinance 0903, 06-11-09)

#### **Section 18.5.5 Duties and responsibilities of Tree Board**

(a) It shall be the responsibility of the Tree Board to study, investigate, counsel, develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented annually to the city commission and, upon their acceptance and approval, shall constitute the official comprehensive tree plan for the City;

(b) The Tree Board, when requested by the City Commission, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

(c) Site plans, development plans, or subdivision plats that result in an alteration of a site, or that require Planning and Zoning Commission approval under Section 5.2 of the Crescent City Land Development Code, shall include consideration of tree preservation; and the approval of such plans shall constitute the issuance of a tree permit consistent with the approved plan. Site plans, development plans and subdivision plats may require a pre-design, on-site meeting with the city Tree Board to locate any champion trees or heritage trees.

- (1) If such trees are present and there is some dispute regarding the health of such trees, the County Forester will determine the health of such trees. The applicant will mark and locate, using a registered land surveyor, all champion trees and all heritage trees deemed healthy enough to provide substantial long-term benefits. The applicant may locate additional trees.
- (2) Notice of application for authorization to remove a tree shall be provided to the members of the Tree Board, and one or more of the members of the Tree Board shall be provided a reasonable opportunity to comment to the permitting authority prior to the issuance of a zoning permit or conditional use permit that would authorize the removal of trees.
- (3) A subsequent tree location survey must be included in the application. The applicant will be required to save all champion trees.
- (4) Site plan approval requires the retention of a 15 percent tree canopy for all zoning districts except industrial and platted single-family subdivisions. The City may grant the application with less than 15 percent canopy if one or more of the criteria listed in Section 18.5-16(d) are met.

(Ordinance 0903, 06-11-09)

## Section 18.5.6 Tree Permits – Generally

(a) **When Required.** In addition to the development review required under Section 18.5.5, a permit shall be required as a condition precedent to the removal, relocation or pruning of any Champion Tree or Heritage Tree on any property within the City limits. A Regulated Tree or other tree not considered a Champion Tree or Heritage Tree that is located completely on private property does not require a permit to remove, relocate or prune. Nothing herein should be interpreted to exempt the property owner or developer from any landscaping and buffering requirements in the Land Development Code or from any other local, State or Federal permit requirements.

(b) **Permit Process.** The following shall serve as the standard permitting process for tree removal or tree pruning permits in the City of Crescent City

- (1) Any person wishing to obtain a tree permit shall make application with the City Manager on such form as shall be prescribed by the City Manager. An application fee may be required, the amount of which shall be established by a resolution of the City Commission.
- (2) The City Manager shall forward the application to a designated member of the Tree Board who shall review the applications and determine what effect the removal will have upon the drainage, topography, natural resources, and ecology of the area and shall consider these factors in granting or denying an application.
- (3) The designated member of the Tree Board shall, within five [5] working days of the filing of an application concerning a Champion Tree or Heritage Tree, attempt to verify the information contained in the application and shall either approve or deny the application as to each regulated tree proposed to be removed or relocated or pruned. Applications that are denied may be appealed to the City Commission.

(c) **Permit Approval – Considerations.** The City Manager and the Tree Board shall grant the application if it finds one or more of the criteria are met:

- (1) The tree is an immediate safety hazard that may result in physical harm to persons, domestic animals, buildings, motor vehicle traffic, bicycle traffic, or pedestrian traffic.
- (2) The tree is infected with an infestation of harmful insects or fungi that are not generally present on other trees of the species and may reasonably be expected to spread to other trees not so infested.
- (3) The tree, by its location, prevents reasonable use or development of the site, and no reasonable alternative to such use or development is possible.

- (4) The tree, by the normal growth of its branches or roots, is causing progressive damage to buildings or other structures, and no reasonable correction or prevention is available other than the removal or pruning of the tree.

As a condition of the granting of a permit, the applicant may be required to relocate the trees proposed for removal or replace the removed trees with new trees planted elsewhere on the site. Replacement trees may be required on a more than one-for-one basis if the replacement trees are smaller than the tree being removed; however, replacement trees shall not be required on more than a three-for-one basis. A tree list developed as part of this Chapter shall be used as a reference for selecting replacement trees.

In all cases wherein this chapter shall require replacement of any tree, the replacement shall be made with replacement stock. "Replacement stock" is hereby defined as any tree contained on the replacement stock list having a height of at least eight [8] feet and a *Florida Nursery Grade Number One* or better. Survival of replacement stock will be guaranteed until the replacement stock meets with the definition of "tree" as defined in Section 18.5.1. Replacement stock may be any of the trees listed on a list of approved trees established by resolution of the City Commission.

(Ordinance 0903, 06-11-09)

#### **Section 18.5.7 Reserved**

(Ordinance 0903, 06-11-09)

#### **Section 18.5.8 Street trees species to be planted**

No species other than those included in the street tree list may be planted as street trees without written permission of the Tree Board.

(Ordinance 0903, 06-11-09)

#### **Section 18.5.9 Spacing**

The spacing of street trees will be in accordance with the tree species classes referred to in Section 18.5.8, and no trees may be planted closer together than the following:

(a) Small trees, 20 feet

(b) Medium trees, 30 feet

(c) Large trees, 50 feet, except in special plantings designed or approved by a landscape architect.

(Ordinance No. 9010, Section 9: 12-13-90)

**Section 18.5.10 Distance from curb and sidewalk**

The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the tree species size classes referred to in section 18.5.8, and no trees may be planted closer to any curb or sidewalk than the following:

- (a) Small trees - 2 feet
- (b) Medium trees - 3 feet
- (c) Large trees - 4 feet

(Ordinance 0903, 06-11-09)

**Cross reference:** *Streets and sidewalks*, Chapter 16

**Section 18.5.11 Distance from street corners and fire hydrants**

No street tree shall be planted closer than twenty [20] feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than fifteen [15] feet of any fire hydrant.

(Ordinance 0903, 06-11-09)

**Cross reference:** *Streets and Sidewalks*, Chapter 16

**Section 18.5.12 Public tree care**

(a) The City shall have the right to plant, prune, maintain, relocate or remove trees, plants and shrubs within the lines of all public rights-of-way, streets, alleys, avenues, lanes, squares, parks and other public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Tree Board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with an injurious fungus, insect or other pest. This section does not prohibit the planting or pruning of street trees by owners of adjacent property provided that planted trees meet the requirements of Sections 18.5.8 through 18.5.11 and any proposed pruning of existing Street Trees or Park Tree must be approved in advance by the City Manager or the Tree Board.

(b) All public agencies and utilities shall comply with this ordinance. All public utilities, governmental agencies and their subcontractors shall comply with the “National Arborist Association Standard for the Pruning of Shade Trees” when pruning trees on public or private property. Notice shall be provided to landowners at least one week in advance of pruning and/or removing landowners’ trees. Emergency removal requiring immediate action to protect the health and safety of the public are not subject to this ordinance.

(Ordinance 0903, 06-11-09)

**Section 18.5.13 Tree topping**

It shall be unlawful as a normal practice for any person, business entity, firm, corporation or city department to top any street tree, park tree or other tree on public property. “Topping” is

defined as the severe cutting back of limbs to stubs larger than three [3] inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, trees serving as viable habitat for wildlife, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this requirement at the determination of the Tree Board. (Ordinance 0903, 06-11-09)

#### **Section 18.5.14 Pruning, corner clearance**

Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection, and to that end there shall be a clear space of eight [8] feet above the surface of the street or sidewalk. Such owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, or interferes with visibility of any traffic-control device or sign. (Ordinance 0903, 06-11-09)

#### **Section 18.5.15 Dead/diseased tree removal on private property**

The City shall have the right to cause the removal of any dead or diseased trees on private property within the City when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the city. The Tree Board will notify in writing the owners of such trees. Removal shall be done by the owners at their own expense within sixty [60] days after the date of service of notice. In the event of failure of an owner to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property under the abatement provisions in Section 10.21 of this Code. (Ordinance 0903, 06-11-09)

#### **Section 18.5.16 Protection and preservation**

It is the intent of this section to ensure the survival of existing trees during development and alteration of a site. Recognizing the impossibility of protecting all trees, the developer will designate those trees to be preserved and the level of protection to be afforded them based on the following categories:

(a) **Category I** trees: Those trees identified during a pre-design on-site meeting as being healthy Heritage Trees which do not conflict with the approved site plan. Trees so designated will be protected from construction activities within the full drip line of the tree. All Champion Trees will be protected to Category I standards or better.

(b) **Category II** trees: Those trees identified during a pre-design meeting which are desirable to keep but due to location and development activities cannot be protected to the level of Category I trees. Construction activities will be kept at a minimum of ten feet from the trunk of Category II trees. Alternative construction techniques such as pervious pavements, jacking

and boring, bridging over large roots, and root aeration systems may be used to protect these trees.

(c) **Category III** trees: Those trees which, due to number or location, cannot receive the level of protection afforded Category I and II trees, yet add to the landscape and may survive development activities.

(Ordinance No. 9010, Section 16; 12-13-90)

### **Section 18.5.17 Exemptions**

(a) **Forestry:** All bona fide commercial forestry operations, including natural, planted, and hardwood forests, regardless of zoning or tax classifications, are exempt from this ordinance insofar as the following provision are met:

- (1) **Qualifications:** Parcels in the Agriculture, Commercial or Residential Zoning classification must be ten acres or greater in size. A commercial forestry operation in the above classifications must have a forest management plan in effect similar to, and meet the same minimum standards as, the forest management plan furnished or developed by the county forester; however, one good and accepted forest management practice will not be required in lieu of another.
- (2) **Owners** of commercial forestry operations in areas zoned Agriculture, Commercial, or Residential must submit a notice of activity to the Tree Board prior to the commencement of the following silviculture activities: timber harvesting, mechanical site preparation, or land clearing. This notice will include the following information:
  - a. Owner's name
  - b. Parcel number
  - c. Parcel acreage
  - d. Acreage affected
  - e. Type of activity
  - f. Vendor name and address
  - g. Estimated date of commencement of activity
- (3) All commercial forestry operations, regardless of zoning or tax classification, must be conducted in accordance with the *Silviculture Best Management Practices Manual* and the *Management Guidelines for Forested Wetlands in Florida*. Failure to comply will terminate the exemption as provided herein from this Chapter.

(b) **Agricultural:** Lands that are zoned Agricultural and that qualify for the agricultural tax exemption are exempt from this Chapter subject to the following provisions:

- (1) Requirement of permits for removal of heritage trees in all agricultural districts, except bona fide forestry operation within fifty [50] feet of



property ownership boundaries and within four hundred [400] feet of all publicly owned parks, except in bona fide forestry operations.

- (2) Within Agriculture-zoned lands, a notice of activity must be submitted to the Tree Board prior to clearing new lands for agricultural use. This notice will include the following information:
  - (a) Owner's name
  - (b) Parcel number
  - (c) Acreage affected
  - (d) Type of activity
  - (e) Vendor name and address
  - (f) Estimated date of commencement of activity

(c) Residential: Except for Champion and Heritage Trees, trees on lots in actual single-family residential use are exempt from this Chapter.  
(Ordinance 0903, 06-11-09)

#### **Section 18.5.18 Primary reference work**

Whenever there is a question regarding tree protection standards, the *Florida Division of Forestry Tree Protection Manual* shall serve as the primary reference.  
(Ordinance 0903, 06-11-09)

#### **Section 18.5.19 Applicability of ordinance**

The terms and provisions of this Chapter shall apply to all real property lying within the incorporated limits of the city, including publicly owned land, rights-of-way, and easements.  
(Ordinance 0903, 06-11-09)

#### **Section 18.5.20 Article to be liberally construed**

This Article shall be liberally construed in order to effectively carry out the purposes hereof, which are deemed to be in the best interests of the public health, safety and welfare of the citizens and residents of the City. In the event this chapter conflicts with any other applicable county or state regulations on this subject matter, the more restrictive shall apply.  
(Ordinance 0903, 06-11-09)

#### **Section 18.5.21 Interference with Tree Board**

It shall be unlawful for any person to prevent, delay or interfere with the Tree Board, or any of its agents, or servants, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private property, as authorized in this ordinance.  
(Ordinance 0903, 06-11-09)

### **Section 18.5.22 Local Business Tax Receipt and Insurance Required**

It shall be unlawful for any private person, business entity, corporation or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first applying for and procuring a City Local Business Tax Receipt in accordance with Chapter 12, Article I of this Code. However, no license shall be required of any public service company or City employee doing such work in the pursuit of their public service endeavors. Before any Local Business Tax Receipt shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$25,000.00 for bodily injury and \$10,000.00 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(Ordinance 0903, 06-11-09)

### **Section 18.5.23 Review by city commission**

The City Commission shall have the right to review the conduct, acts and decisions of the Tree Board. Any person may appeal from any ruling or order of the Tree Board to the City Commission, who may hear the matter and make the final decision.

(Ordinance 0903, 06-11-09)

### **Section 18.5.24 Penalty**

Any person violating any provision of this chapter shall be, upon conviction or a plea of guilt, subject to a fine not to exceed \$500.00.

(Ordinance 0903, 06-11-09)