



# City of Miami

## Legislation

### Ordinance: 13174

City Hall  
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Drive  
Miami, FL 33133  
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#### (4/5THS VOTE)

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 17 OF THE CITY OF MIAMI CODE, AS AMENDED ENTITLED "ENVIRONMENTAL PRESERVATION" WHICH ESTABLISHES PROCEDURES FOR THE REMOVAL OF TREES IN THE CITY OF MIAMI AND IN ENVIRONMENTAL PRESERVATION DISTRICTS; CREATING A NEW ARTICLE I "TREE PROTECTION IN GENERAL"; AMENDING AND CLARIFYING CERTAIN SECTIONS IN ARTICLE II ENTITLED "ENVIRONMENTAL PRESERVATION DISTRICTS"; CONTAINING A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, these regulations concern architectural, aesthetic, environmental, cultural and historic concerns that more appropriately belong in the Code of the City of Miami, Florida, and

WHEREAS, the protection of the tree canopy and environmental features within the City of Miami is of paramount importance, as they add much to creating the city's physical character; and

WHEREAS, both tree protection and environmental preservation address the stewardship of the city's living features, which includes its topographic, geological and landscape features, and

WHEREAS, these amendments to Chapter 17 of the City Code establish procedures for the removal of trees throughout the City of Miami and in environmental preservation districts,

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. Chapter 17 of the City Code, entitled "Environmental Preservation" is amended in the following particulars: {1}

#### ARTICLE I. TREE PROTECTION IN GENERAL

##### Sec. 17.1. Intent and purpose

The intent of this article is to protect, preserve and restore the tree canopy within the City of Miami ("city") by regulating the removal, relocation and trimming of trees.

The purpose of this article is to assure that the design and construction of all development activity is

executed in a manner consistent with the preservation of existing trees to the greatest extent possible.

Sec.17.2. Definitions.

For the purposes of this article, the following words and phrases shall have the meaning respectively ascribed to them by this section:

*Applicant:* A person who is the owner, authorized agent of the owner, or lessee of a property under a written lease authorized to apply for a building permit.

*Arborist, certified:* A person who is certified by the International Society of Arboriculture (ISA) and is well-versed in the art of arboriculture, including tree surgery, the prevention and cure of tree diseases, and the control of insects.

*Buildable area:* The portion of the site exclusive of the required yard areas as defined by the Zoning Ordinance of the City of Miami and its successors.

*Certificate of Approval:* A written document permitting tree removal or development activity within those areas identified and established as environmental preservation districts or scenic transportation corridors.

a. *Standard Certificate of Approval.* A written document issued by the Preservation Officer for tree permits located within an environmental preservation district.

b. *Special Certificate of Approval.* A written document issued by the Historic and Environmental Preservation Board ("HEPB") where the Board must decide if a major addition, removal or alteration of trees meets the requirements of this article. This certificate will be considered by HEPB in accordance with the procedures for a special certificate of appropriateness in 23-5(4), of the Miami City Code, as amended.

*Code enforcement board:* The code enforcement board of the City of Miami as appointed pursuant to Chapter 2, Article 10, of the Miami City Code. For purposes of this article, code enforcement board shall be synonymous with and have all powers of the special master. The terms may be used interchangeably.

*Controlled tree species:* Those tree species listed in the Miami-Dade County Landscape Manual which tend to become nuisances because of their ability to invade proximal native plant communities or native habitats, but which, if located and cultivated properly may be useful or functional as elements of landscape design.

*Crown:* The upper part of a tree, measured from the lowest branch, including all branches and foliage.

*Dead Tree:* A tree which has no vital functions.

*Department:* The department of code enforcement, or that department/office in which the code inspectors as defined in Chapter 2, Article 10, of the Miami City Code are located.

*Development activity:* The carrying out of any building construction, including without limitation building addition, modifications or demolition, or making any material alteration to the use or exterior appearance of any structure or site.

*Diameter (DBH):* The diameter at breast height of a tree's trunk measured at a height four and one-half (4 1/2) feet above grade. In the case of multiple-trunk trees, the DBH shall mean the sum of each trunk's diameter measured at a height four and one-half (4 1/2) feet above grade.

*Drip line:* An imaginary vertical line running from the outermost horizontal circumference of the tree branches and extending to the ground.

*Environmental preservation districts:* Geographical areas, parcels or corridors, which have been or may be identified, are established by the city commission as significant natural or manmade attributes in need of preservation and control because of their educational, economic, ecological and environmental importance to the welfare of the general public and the city as a whole. The City's Environmental preservation districts are designated in an atlas kept on file with the Department of Planning.

*Environmentally significant feature:* Natural or manmade artifacts, sites or features which possess attributes in need of preservation and control because of their economic, educational or environmental importance to the welfare of the general public and the city as a whole. Environmentally significant features include all trees within the city and specifically designated natural, topographical or geological formations, mangrove areas, natural hammocks, unique scenic vistas or transportation corridors and rare and valuable plant material.

*Exotic tree species:* A plant species that has been introduced from other regions, and is not native to the region to which it is introduced.

*Fatally Diseased Tree:* A tree which has a condition that impairs its normal functioning, as manifested by distinguishing signs and symptoms that will cause the death of the tree, and for which there is no know effective cure or treatment.

*Girdling:* The removal of a strip of bark from around a stem or trunk so as to block the downward movement of carbohydrates. Girdling used to kill a tree.

*Grade:* The ground level of a subject property measuring the degree of rise or descent of a sloping surface.

*Hatracking (Topping):* The reduction of tree size using inter-nodal cuts without regard to tree health or structural integrity.

*Hazardous tree:* A tree with the potential to fail or fall, in an environment that may contribute to that failure, and such that a person or object could be injured or damaged by that failure. A tree removal permit shall be issued for a hazardous tree, provided the hazard cannot be abated by other means (i.e. pruning, trimming, fruit removal, removal of hazardous limbs).

*Landscape manual:* The Miami-Dade County Landscape Manual, latest edition, which is the official landscape manual issued by Miami-Dade County, Florida, and incorporated herein by reference. The landscape manual, as amended from time to time, is adopted by reference by the city and deemed

incorporated by reference as if set forth herein. If a conflict arises between the landscape manual and this article, the latter shall prevail.

*Native tree species:* Plant species with geographic distribution indigenous to all or part of Miami-Dade County. Plants which are described as being native to Miami-Dade County in botanical manuals such as, the Miami-Dade County Landscape Manual, are considered native plant species within the meaning of this definition.

*Owner:* Any person, entity, corporation, partnership, trust, holding company, limited liability company or any other legally recognized entity that is the legal, beneficial or equitable owner of any interest whatsoever in the property. Owner shall include any purchaser, assignee, successor, or transferee of any interest whatsoever in the property regarding any provisions of this article.

*Person:* As per the definition set forth in Chapter 1, Section 1-2 of the Miami City Code.

*Prohibited tree species:* Those tree species that are detrimental to native plants, native wildlife, ecosystems, and human health, safety or welfare. Prohibited tree species includes those designated in the Miami-Dade County Landscape Manual and the Ficus Benjamina/Weeping Fig.

*Protective barriers:* Barriers that are placed around existing trees to provide protection during construction on a subject property as described in the Miami-Dade County Landscape Manual.

*Pruning/trimming:* The selective cutting of tree or plant parts done to encourage new growth or better flowering; to remove old stems or deadwood; or to shape trees according to the Standards set forth in the ANSI A300 Tree Care Standards Manual ("ANSI A300 Standards"), incorporated herein by reference. A tree removal permit shall also be required for the pruning or trimming of tree(s) not in compliance with ANSI 300 Standards.

*Replacement or replacement trees:* Those tree(s) that are planted for the purposes of restoring the tree canopy and replacing existing tree(s) whose removal was authorized under this article.

*Roots/root systems:* The tree part containing the organs used for extracting water, gases and nutrients from the soil and atmosphere.

*Scenic transportation corridor:* Those roadways identified by the State or by the city commission resolution as having a unique landscape, an expansive tree canopy and/or unique landscape features that is of substantial environmental or scenic importance to residents and visitors.

*Site plan:* A comprehensive plan drawn to scale indicating site elevations, roadways and location of all relevant site improvements including structures, parking, other paved areas, ingress and egress drives, landscaped open space and signage.

*Sound nursery practices:* The procedures of landscape nursery work that comply with the standards set by the Florida Department of Agriculture and Consumer Services.

*Special master:* The person(s) appointed pursuant to Chapter 2, Article 10, of the Miami City Code. For purposes of this article, the special master shall be synonymous with and have all powers of the code enforcement board. The terms may be used interchangeably.

Spiking: The insertion, whether vertically or horizontally, of foreign objects into the base of the tree or its root system. Spiking is often used to kill a tree.

Spread: The average diameter of the crown.

Stems: The main upward axis of a tree consisting of nodes and bearing leaves above the ground, which serves to support the tree and transport and store food materials.

Specimen tree: A tree with any individual trunk or a multiple trunk tree, the sum of the diameter of the trunks having a diameter at breast height (DBH) of eighteen (18) inches or greater. This excludes the following:

- a. Non-native fruit trees cultivated or grown for the specific purpose of producing edible fruit, including, but not limited to: mangos, avocados or species of citrus;
- b. Non-native species of the genus *Ficus*; and
- c. All trees in the palm family.

Tree: Any self-supporting woody plant or palm which usually has a single main axis or trunk, with a minimum trunk diameter at breast height of two (2) inches and a minimum overall height of twelve (12) feet. This definition excludes plants which are defined as shrubs, hedges, vines, or ground covers. Palms shall have a minimum height of fourteen (14) feet in order to be classified as a tree.

Tree abuse: Tree abuse shall include:

- a. Damage inflicted to any part of a tree, including the root system, by machinery, construction equipment, cambium layer penetration, storage of materials, soil compaction, excavation, chemical application/spillage or change to the natural grade;
- b. Hatracking;
- c. Girdling, spiking or bark removal of the trunk;
- d. Pruning techniques not in accordance with the current ANSI A300 Standards.
- e. Excessive root cutting.

Tree Removal: The act of cutting down, destroying, moving, or effectively destroying through damaging, any tree situated on any real property or public property within the city.

Viable: A tree, which in the judgment of the department is capable of sustaining its own life processes, unaided by man for a reasonable period of time.

### Sec. 17.3. Applicability

The provisions of this article shall apply to all public or private property within the city, unless expressly exempted by law.

Any tree removal on a public right-of-way or on property owned by the city shall require a permit from the public works department, unless it is deemed in writing by the Public Works Director or the Director of the department of code enforcement that such permit will be an undue burden for the city and is not in the best interest of the public health, safety and welfare of the city.

All trees located within environmental preservation districts shall also be subject to the requirements of article 2 of this chapter.

Palms with a DBH of six (6) inches and a height over sixteen (16) feet shall also be subject to these requirements.

All trees located within natural forest communities shall also be subject to the requirements of article 3 of chapter 24 of the Miami-Dade County Code, as amended.

All mangrove trees and any tree located upon land which is wetlands as defined in F.S. § 373.019, as amended from time to time, shall also be subject to the permitting requirements of article 2 of chapter 24 of the Miami-Dade County Code, as amended.

Sec. 17.4. Tree removal permit applications, requirements, review, and fees.

17.4.1. Permit, when required. A tree removal permit shall be required for the removal or relocation of any tree within the city, unless exempted by section 17.11. A tree removal permit shall also be required for crown pruning not in accordance with ANSI A-300 Tree Care Standards, incorporated herein by reference, or for any root pruning. No person, agent or representative thereof, directly or indirectly, shall cut down, remove, relocate, or effectively remove through tree abuse, any tree situated on any property described in section 17.3, without first obtaining a tree removal permit as hereinafter provided. A tree removal permit shall be required for the pruning of any tree roots, except for the pruning of roots when essential for any repairs or improvements performed by or for the department of public works or capital improvements. No building permit for any work that has the potential to affect trees, including new construction, additions, carports, pools, decks, fences, driveways, parking lots, tennis courts, demolition, or similar work, shall be issued by the building department unless the zoning department has determined that a tree removal permit is not required or that a valid tree removal permit has been issued in accordance with this article.

17.4.2. Application requirements. Applications shall be made on the form provided for that purpose and shall include a written statement indicating the reasons for the removal or relocation of each tree. The following documentation and any applicable fees shall accompany applications:

- a. Applications for tree removal in conjunction with new construction, including additions, pools, and decks, shall include a tree survey, drawn to scale, identifying the tree species, location, and listing the height, spread and diameter of all existing trees. The tree survey shall illustrate the location of all existing structures, the location of any overhead and/or underground utilities and the right-of-way limits, edges of pavement, including all trees within the right-of-way. This survey shall be prepared by a professional land surveyor, licensed in the State of Florida. Applications for a building permit or tree removal shall also include a tree disposition plan drawn to scale identifying and listing all existing trees and specifying the condition of each tree and whether said trees are to remain, to be removed and/or to be relocated. The tree disposition plan shall also contain the value of specimen trees that are listed to remain and/or to be relocated. The valuation of trees shall be appraised using the Council of Tree and Landscape Appraisers Guide for Plant

Appraisal, latest edition. The tree disposition plan shall superimpose all proposed new construction, and the new locations of existing trees to be relocated on site over the tree survey plan information. For applications involving the construction of a new building(s), the tree disposition plan shall be prepared by and bear the seal of a landscape architect currently licensed in the State of Florida.

b. Applications for tree removal in conjunction with any other activity requiring a building permit, demolition permit, or for any other tree removal, shall include a site plan drawn to scale, or existing property survey, identifying the location of the tree, the species and listing the height, spread and diameter of all existing trees. Said site plan may be limited to the immediate area of the proposed work. Applications for a building permit, demolition permit, or tree removal shall include a tree disposition plan drawn to scale, or such plan incorporated onto an existing property survey, listing all existing trees and specifying the condition of each tree and whether said trees are to remain, to be removed and/or to be relocated. This plan shall also illustrate the location of all existing structures and/or all proposed new construction, the location of any overhead and/or underground utilities and the new locations of existing trees to be relocated on site.

c. All applications shall have a tree replacement plan / landscape plan drawn to scale that illustrates all proposed new construction, new locations of relocated trees, and new replacement tree locations that complies with the requirements of section 17.6. entitled "Tree replacement" . For applications involving the construction of a new building(s), the tree replacement plan shall be prepared by and bear the seal of a landscape architect currently licensed in the State of Florida.

d. Anytime construction or development is to be undertaken, a tree protection bond equal to the value of the specimen tree(s) to remain and/or to be relocated shall be posted. The bond shall remain in effect for one (1) year after the final certificate of occupancy is issued.

e. Tree removal and tree replacement for homestead residents (homestead lots) are to comply with the following alternate requirements:

1. Non-specimen and non-native tree or palm species may be removed after obtaining a tree removal permit. Tree replacement shall be required at a one to one ratio upon written confirmation from the City.

2. Any removal of a specimen tree, native tree or native palm species shall require a tree removal permit and shall comply with the standard tree replacement quantities and requirements.

3. Hazardous trees, fatally diseased trees, and dead trees may be removed after obtaining a tree removal permit attached with a letter from a Certified Arborist or Horticulturist confirming that the tree is hazardous, fatally diseased, or dead. The department may require photographs of the tree(s) depicting the hazardous condition, signs or symptoms of a fatal disease, or a dead tree. Furthermore, the department may require supporting documentation such as a hazard tree analysis, laboratory analysis report, or relevant scientific literature. After obtaining a tree removal permit, the designated tree(s) may be removed without the need for tree replacement.

4. Prohibited trees may be removed after obtaining a tree removal permit. The department may require photographs of the tree(s) to support the identification of the tree species. Prohibited trees may be removed without the need for tree replacement.

5. Homestead residents may obtain a tree removal permit for their property on an expedited basis.

17.4.3. Review of application. Upon receipt of a completed application, the Department of Code Enforcement (herein referred to as "Department") shall review said application for compliance with the regulations as set forth in this article. Such review shall include a field inspection of the site and referral of the application to other departments or agencies as necessary. Within fifteen (15) calendar days of the receipt of a completed application, the department shall issue an intended decision approving, denying or approving with conditions the permit request.

17.4.4. Notice. Within twenty-four (24) hours of issuing the intended decision for a tree removal permit, the department shall notify the applicant and post a notice of the intended decision on or adjacent to the subject property in a location where it is visible to the general public. The posting shall provide a general description and location of the tree(s) on site to be removed or other action requiring the tree removal permit. The intended decision shall also be sent to the Home Owners' Associations registered with the Neighborhood Enhancement Team in that area.

17.4.5. Issuance of permit. If no appeal, in accordance with section 17.8, is timely filed within ten (10) calendar days of the issuance of the intended decision, the tree removal permit, if originally approved by the department, shall be issued. The property owner shall insure that the tree removal permit is displayed until the authorized work is completed.

17.4.6. Fees. Fees shall be as established pursuant to section 10-4, as amended, "Building Permit Fee Schedule," of the Miami City Code. Applications from government agencies for tree removals in areas dedicated to public use may, at the discretion of the city commission, be exempted from application fees and permit fees by resolution.

17.4.7. Final inspection. No later than six (6) months following the completion of the authorized work, the applicant shall schedule a final inspection with the department for verification and acceptance of the final authorized work.

Sec. 17.5. Criteria and conditions for tree removal and relocation.

17.5.1. Criteria for tree removal. No permit shall be issued for tree removal unless one of the following criteria exists:

a. The tree is located in the buildable area or yard area where a structure or improvement may be placed and the tree unreasonably restricts the permitted use of the property. Trees located in the property frontage (within the 15-foot setback), are not considered located within the buildable area or yard. Ingress and egress to garages are not considered buildable or yard areas. Trees on a public right-of-way shall not be considered for removal because they restrict ingress or egress to the garages or parking on the site, except if there is no other reasonable access to and from the structure or to the property from the public right-of-way. This restriction shall be waived by either the Director of Code Enforcement when it relates to the private property and/or by the Director of Public Works when

it relates to the public right-of-way.

b. The tree: is diseased, injured or in danger of falling; interferes with utility service; creates unsafe vision clearance; or is in danger of materially impairing the structural integrity of an existing structure.

c. The tree is an exotic tree species and will be replaced with a native tree species to promote good forestry practices; creates a health hazard; interferes with native tree species; or creates a negative impact on natural land features such as rock outcroppings, sink holes or other geological, historical or archeological features.

d. It is in the interest of the general welfare of the public that the tree be removed for a reason other than set forth above.

17.5.2. Conditions for tree removal, relocation and replacement. Any or all of the following conditions may be required:

a. The applicant may be required to redesign the project to preserve specimen tree (s) or any other tree determined by the department to be of substantial value because of its species, size, age, form and/or historical significance, and to provide an alternate plan that includes the preservation of said tree (s) and design alterations within the scope and intent of the initially proposed plan.

b. Where practical, specimen trees or any other tree determined by the department to be of substantial value because of its species, size, age, form and/or historical significance, proposed for removal, shall be relocated on or off-site. The applicant shall adhere to acceptable tree relocation standards and specifications. The department may require a Certified Arborist to monitor the root pruning and tree relocation preparation efforts on site and to provide documentation certifying that the work was accomplished according to acceptable tree relocation standards and specifications.

c. If it is impractical to relocate said tree(s) either on or off-site, because of age, type or size, the applicant shall be required to replace all trees permitted to be removed in accordance with the tree replacement requirements in section 17.6.

d. The department may require that the applicant provide a written report from a certified arborist before making any determinations in conjunction with this section. The department may also require monitoring by a certified arborist during construction to assure tree preservation.

#### Sec.17.6. Tree replacement.

17.6.1. Tree replacement chart. The tree replacement Chart 17.6.1.1 below, shall be used to determine the total number and size of trees that shall be planted as replacement trees for all trees permitted to be removed. The replacement trees are based on the diameter in inches (DBH) of the trees to be removed. To determine the required replacement trees, calculate the total sum in inches of the diameters of all trees to be removed. This sum will result in one (1) single number in inches that represents the combined total of the diameters of all trees to be removed. Diameter measurement shall be rounded up to the nearest inch.

**Chart 17.6.1.1 Tree Replacement Chart**

<u>Total diameter of tree(s) to be removed (Sum of inches at DBH)</u>	<u>Total number of replacement replacement trees required (2" DBH minimum each; 12' minimum height)</u>	<u>OR</u>	<u>Total number of replacement replacement trees required (4" DBH minimum each; 16' minimum height)</u>
2"--3"	<u>1</u>	<u>or</u>	<u>0</u>
4"--6"	<u>2</u>	<u>or</u>	<u>1</u>
7"--12"	<u>4</u>	<u>or</u>	<u>2</u>
13"--18"	<u>6</u>	<u>or</u>	<u>3</u>
19"--24"	<u>8</u>	<u>or</u>	<u>4</u>
25"--30"	<u>10</u>	<u>or</u>	<u>5</u>
31"--36"	<u>12</u>	<u>or</u>	<u>6</u>
37"--42"	<u>14</u>	<u>or</u>	<u>7</u>
43"--48"	<u>16</u>	<u>or</u>	<u>8</u>
49"--60"	<u>20</u>	<u>or</u>	<u>10</u>

If the sum of the diameter of trees to be removed exceeds a total of sixty (60) inches, the additional inches shall be added cumulatively from the top of the chart, down to the bottom of the chart, to calculate the number of trees required as replacement trees.

Up to thirty (30) percent of the two (2) inch DBH replacement tree requirement may be met by native species with a minimum height of eight (8) feet and a minimum DBH of one (1) inch at time of planting.

Palms of a fourteen (14) foot minimum overall height and minimum DBH of three (3) inches at time of planting shall count as a required two (2) inch DBH replacement tree on the basis of two (2) palms-per required tree. No more than thirty (30) percent of the required replacement trees shall be palms.

17.6.2. Tree species. Tree(s) installed as replacement trees shall be of a native or non-native species and shall be planted at grade or ground level according to ISA best management practices manual, incorporated herein by reference. When more than ten (10) trees are installed as replacement trees, a diversity of species shall be required as per Chart 17.6.2.1 Tree Species Diversity Chart, below.

**Chart 17.6.2.1 Tree Species Diversity Chart**

<u>Required number of trees</u>	<u>Required minimum number of species</u>
<u>11--20</u>	<u>2</u>
<u>21--50</u>	<u>4</u>
<u>51 or greater</u>	<u>6</u>

17.6.3. Prohibited species. Replacement trees are not required for the removal of any prohibited species except Ficus altissima (Lofty Fig) and Ficus benghalensis (Banyan Tree). No fees will be assessed for removal of prohibited tree species.

17.6.4. Tree quality. Trees installed as replacement trees in accordance with this section shall conform to, or exceed, the minimum standards for Florida Number One as provided in the most current edition of "Grades and Standards for Nursery Plants, Part I and II," prepared by the Florida Department of Agriculture and Consumer Services, and incorporated herein by reference. Trees shall

be planted according to sound nursery practices as illustrated in the landscape manual.

17.6.5. Off-site replacement trees. If the total number of trees required as replacement trees cannot be reasonably planted on the subject property, the applicant may enter into an agreement with the city, as approved by the department, to plant the excess replacement trees on public property within the city commission district of the subject property. An alternative to off-site replacement is provided in section 17.6.6, relating to the contribution to the tree trust fund. Applicants may do both to the extent that they should proffer to do so.

17.6.6. Tree trust fund. If the total number of trees required as replacement trees cannot be reasonably planted on the subject property, the applicant shall contribute to the city's tree trust fund the sum of one thousand dollars (\$1,000.00) for each two-inch DBH tree required as replacement trees in accordance with Section 17.6.1.1. A city resident with current proof of residency and homestead status shall contribute five hundred dollars (\$500.00) for each two-inch DBH tree required as replacement trees in accordance with Section 17.6.1.1, one time during a calendar year on his or her homestead property. An addition or an alternative to contributing to the tree trust fund, is provided in section 17.6.5, relating to off-site replacement trees. Applicants may do both to the extent that they should proffer to do so.

17.6.7. Completion. The replacement tree process shall be completed prior to the issuance of a certificate of occupancy or temporary certificate of occupancy. Moreover, the approval of a tree relocation or tree removal permit is contingent on any requirements set forth in 17.6 through 17.6.6 above.

#### Sec. 17.7. Tree protection.

17.7.1. Tree protection during construction. Trees shall be protected during construction activity as determined by the Building Department through the use of protective barriers in accordance with the landscape manual. Trees that are to remain shall be clearly identified with tags. A protected area with a radius of ten (10) feet shall be maintained around trees to remain in accordance with the landscape manual, unless a certified arborist otherwise determines in writing that a smaller or larger protected area is acceptable for each tree, or an alternative tree protection method is approved.

During demolition and/or development or construction, including installation of irrigation systems or any other underground installations, protective barriers shall be placed around each tree and shall remain in order to prevent the destruction or damaging of roots, stems or crowns of such trees. The barriers shall remain in place and intact until approved landscape operations begin; however, barriers may be removed temporarily to accommodate construction needs, provided that the manner and purpose for such temporary removal will not harm the trees. The trees shall be properly irrigated throughout the building process. Trees damaged during construction shall be subject to the provisions of section 17.9.

17.7.2. Tree pruning/trimming. The pruning or trimming of any tree shall be done in accordance with the standards set forth in the ANSI A-300 Tree Care Standards and the guidelines illustrated in the landscape manual, both incorporated herein by reference. "Hatracking" or "topping" is not permitted and shall be considered a violation of this article. Any other tree abuse, or activity that can effectively destroy a tree, shall also be considered a violation of this article.

#### Sec 17.8. Appeals, appellate fees.

17.8.1. Appeals to the historic and environmental preservation board (HEPB). The property owner, the applicant, or any aggrieved party having standing under Florida law, may appeal to the HEPB any

decision of the department on matters relating to applications for tree removal permits, except for tree removal permits granted to the departments of public works or capital improvements, by filing a written notice of appeal to the preservation officer, as established in section 62-191 of the Miami City Code, within ten (10) calendar days after the date of the intended decision. The notice of appeal shall include the decision appealed from and the reasons or grounds for the appeal. HEPB shall hear and consider all facts material to the appeal. HEPB may affirm, modify or reverse the decision of the department.

All appeals to the HEPB in accordance with this section shall be accompanied by a fee of three hundred and fifteen dollars (\$315.00). However, no fees shall be assessed for appeals initiated by an owner of property which abuts the subject property for which a tree removal permit is sought, including properties located across a street or alley from the subject property, appeals by a nonprofit corporation dedicated to conservation and protection of the natural and physical environment, or appeals by a homeowners association, as defined by Chapter 720, Florida Statutes, as amended, which has one (1) member who owns property within five hundred (500) feet of the subject property.

17.8.2. Appeals to the city commission. The property owner, the applicant, the department, or any aggrieved party having standing under Florida law, may appeal to the city commission any decision of the historic and environmental preservation board on matters relating to applications for tree removal permits by filing a written notice of appeal with the department of hearing boards within fifteen (15) calendar days after the date of the decision. The property owner, the applicant, or any aggrieved party having standing under Florida law may appeal to the city commission any tree removal permit granted to the departments of public works or capital improvements or to their contractors, by filing a written notice of appeal with the department of hearing boards, within fifteen (15) calendar days after the date of issuance of the permit. The notice of appeal shall include the decision appealed from and the reasons or grounds for the appeal. The city commission shall conduct a hearing de novo as a body of original jurisdiction, upon any appeal and/or review from an appealable decision under the terms of this ordinance, as amended. New evidence or materials may be received by the city commission where such evidence or materials are pertinent to a determination of the appeal. The city commission may hear the testimony of witnesses and/or any other evidence offered by any person aggrieved or by any officer, board or agency of the city affected thereby or by any interested party having an interest in the appeal under Florida law and may, in conformity with this ordinance and other applicable laws, rules and regulations, render its decision. The city commission shall hear and consider all facts material to the appeal and may affirm, modify or reverse, in whole or in part, with or without conditions, HEPB's decision, or may grant or deny the appeal of the tree removal permit issued to the departments of public works and capital improvements.

All appeals to the city commission in accordance with this section shall be accompanied by a fee of five hundred dollars (\$500.00), plus three dollars and fifty cents (\$3.50) per mailed notice to the adjacent owners within a 500' radius. However, no fees shall be assessed for appeals initiated by an owner of property which abuts the subject property for which a tree removal permit is sought, including properties located across a street or alley from the subject property, appeals by a nonprofit corporation dedicated to conservation and protection of the natural and physical environment, or appeals by a homeowners association, as that term is defined by Chapter 720, Florida Statutes, as amended, which has one member who owns property within five hundred (500) feet of the subject property.

The decision of the city commission shall constitute final administrative review, and no petition for rehearing or reconsideration, shall be considered by the city. Appeals from decisions of the city commission may be made to the courts as provided by the Florida Rules of Appellate Procedure.

17.8.3. Notice. All public hearings on appeals shall be noticed as follows. Notice of the time and

place of the public hearing shall be mailed at least ten (10) calendar days in advance of the hearing to the owner of the subject property and the owners of the adjacent properties. At least ten (10) calendar days in advance of the hearing, a sign, in compliance with the provisions of subsection 62-129(2)a., of the Miami City Code, shall be posted on the subject property.

17.8.4. No tree removal permitted during an appeal. Upon timely submission of an appeal made pursuant to the requirements of this section, removal of any trees which could be affected by the subject appeal is prohibited, pending final disposition of the appeal. A violation of this subsection will automatically result in an additional five hundred dollar (\$500.00) fine payable to the city's tree trust fund for each separate violation of this section.

Sec 17.9. Enforcement.

17.9.1. Jurisdiction. The department shall have jurisdiction for the proper and effective enforcement of this article, under Chapter 2, Article X entitled Code Enforcement. The department shall have the right to inspect subject properties in accordance with the approved tree removal permit and the provisions of this article.

17.9.2. Individual enforcement. Each tree removed without a tree removal permit shall constitute a separate and distinct violation and shall be the subject of individual enforcement.

Sec. 17.10. Penalties, remedies cumulative.

17.10.1. Fine. Any person, or agent thereof, who removes a tree without a tree removal permit, shall be fined up to one thousand dollars (\$1,000.00) per day per violation for a first violation, and shall be fined up to five thousand dollars (\$5,000.00) per day per violation for every repeat violation of this ordinance, or a greater penalty as provided by law, and shall undergo the tree replacement process pursuant to section 17.6. Each tree removed without a tree removal permit shall constitute a separate and distinct violation, subject to a separate fine and tree replacement pursuant to section 17.6.

17.10.2. Tree replacement required. The planting of replacement trees shall be required, in addition to the monetary fines assessed pursuant to this article. The number of trees required as replacement for each tree that was removed without a permit is provided in chart 17.10.2.1, the tree replacement chart, for trees removed without a permit, below. If the total number of trees required as replacement trees cannot be reasonably planted on the subject property, the applicant may contribute to the city's tree trust fund in the amount provided in chart 17.10.2.1.

Chart 17.10.2.1. Tree Replacement Chart for Trees Removed Without a Permit

<u>Diameter (DBH of each tree removed without a permit</u>	<u>Number of replacement trees required (2"DBH minimum each; 12' minimum height</u>	<u>OR</u>	<u>Number of replacement trees required (4" DBH minimum each; 16' minimum height)</u>	<u>OR</u>	<u>Contribution into Tree Trust Fund</u>
<u>2"--3"</u>	<u>2</u>	<u>or</u>	<u>1</u>	<u>or</u>	<u>\$1,000.00</u>
<u>4"--6"</u>	<u>4</u>	<u>or</u>	<u>2</u>	<u>or</u>	<u>\$2,000.00</u>
<u>7"--12"</u>	<u>8</u>	<u>or</u>	<u>4</u>	<u>or</u>	<u>\$4,000.00</u>
<u>13"--18"</u>	<u>12</u>	<u>or</u>	<u>6</u>	<u>or</u>	<u>\$6,000.00</u>
<u>19"--24"</u>	<u>16</u>	<u>or</u>	<u>8</u>	<u>or</u>	<u>\$8,000.00</u>
<u>25"--30"</u>	<u>20</u>	<u>or</u>	<u>10</u>	<u>or</u>	<u>\$10,000.00</u>

<u>31"--36"</u>	<u>24</u>	<u>or</u>	<u>12</u>	<u>or</u>	<u>\$12,000.00</u>
<u>37"--42"</u>	<u>28</u>	<u>or</u>	<u>14</u>	<u>or</u>	<u>\$14,000.00</u>
<u>43"--48"</u>	<u>32</u>	<u>or</u>	<u>16</u>	<u>or</u>	<u>\$16,000.00</u>
<u>49"--60"</u>	<u>40</u>	<u>or</u>	<u>20</u>	<u>or</u>	<u>\$20,000.00</u>

If the sum of the diameter of trees to be removed exceeds a total of sixty (60) inches, the additional inches shall be added cumulatively from the top of the chart, down to the bottom of the chart, to calculate the number of trees required as replacement trees.

17.10.3. Tree viability after project completion. If the department determines that any tree is not viable, alive and growing one year after all associated development activity on the property is completed, the department shall require that said tree be replaced with the same tree species and size which was originally planted or relocated, as per the approved tree removal permit.

17.10.4. Withholding of a new building permit. The removal of any tree in violation of this article shall constitute grounds for withholding new building permits directly related to said tree removal until the violation has been corrected, including payment of all fines and planting of all required replacement trees as pursuant to this section. Alternatively, in order to obtain the new building permit, the person in violation may post a payment and performance bond pursuant to F.S. § 255.05 naming the City of Miami as obligee. The bond shall be in the amount of ten (10) percent of the construction cost or ten (10) percent of the appraised value of the property, if no construction exists. The bond will remain in place until the violation has been corrected, pursuant to this section. In the event a bond is not feasible, the city may accept an irrevocable, unconditional letter of credit, in the previously stated percentages, naming the City of Miami as payee.

17.10.5 Withholding of a certificate of occupancy. The department shall not approve the zoning inspection required for a temporary or final certificate of occupancy until all violations of this article have been corrected, including the payment of all fines and the planting of all replacement trees required as mitigation, pursuant to this section.

17.10.6 Remedies cumulative. The remedies provided in this section shall be cumulative to all remedies provided by law and/or equity, and the election of one shall not preclude the other.

17.10.7. Costs and fees: In the event the city institutes any civil action to enforce the provisions of this article in a court of competent jurisdiction, if the city succeeds as prevailing party, it shall be entitled to recover the fines assessed pursuant to the violation(s), the cost of replacement trees required as mitigation, the costs associated with the investigation and prosecution including reasonable attorney fees, and any equitable and/or legal remedies assigned by the court.

#### Sec. 17.1. Exemptions.

The following are exempt from the provisions of this article:

- a. Any tree growing in a botanical garden, or a licensed plant or tree nursery business.
- b. When the city manager determines, in writing, that tree removal permitting requirements will impede private or public work to restore city order after a declared state of emergency by the city commission.

c. The removal of any tree during or following an emergency or an act of nature or a life safety issue, by demonstrating to the city, following the review and recommendation of the department, which may require photographic proof revised0 and/or other supporting documentation, to help determine the condition of the tree prior to removal which:

1. Creates a life safety issue;
2. Prevents a person from the use or enjoyment of the property;
3. Prevents further damage.

d. Nothing in this article shall be construed to prevent the pruning or trimming of trees where necessary for proper landscape maintenance and safety, provided that the pruning or trimming of trees is done in accordance with ANSI A-300 Tree Care Standards and the guidelines illustrated in the landscape manual.

Secs. 17.12-17.25. Reserved

## ARTICLE II. ENVIRONMENTAL PRESERVATION DISTRICTS

### Section 17.2. Environmental Preservation

#### Sec. 17.26 Definitions

For the purposes of this article definitions are found in Section 17.1.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Buildable area:* The portion of a site exclusive of the required yard areas as defined by Ordinance Number 11000, zoning ordinance of the city, and its successors.—

*Department:* The planning, building and zoning department.—

*Development activity:* The carrying out of any building operation, or making any material change in the use or exterior appearance of any structure or site.—

*Drip line:* A vertical line running from the outermost horizontal circumference of the tree branches and extending to the ground.—

*Environmental preservation districts:* Geographical areas, parcels or corridors, which may be identified in the future, established by the city commission as significant natural or manmade attributes in need of preservation and control because of their educational, economic, ecological and environmental importance to the welfare of the general public and the city as a whole.—

*Environmentally significant feature:* Natural or manmade artifacts, sites or features which possess attributes in need of preservation and control because of their economic, educational or environmental importance to the welfare of the general public and the city as a whole.—

Environmentally significant features include all trees within the city and specifically designated natural, topographical or geological formations, mangrove areas, natural hammocks, unique scenic vistas or transportation corridors and rare and valuable plant material.—

*Tree:* Any self-supporting perennial plant which has a trunk diameter of three or more inches, measured at its narrowest point up to three feet above grade, or 12 or more feet in height.—

*Tree canopy:* The two-dimensional surface area of a tree as viewed from above.—

~~Tree removal: Act of cutting down, destroying, moving or effectively destroying through damaging a tree situated on any real property within the city as established in section 17-28.~~

~~Viable: The term "viable," as used in this article, shall refer to a tree, which in the judgment of the enforcement agency, is capable of sustaining its own life processes, unaided by man, for a reasonable period of time.~~

Sec. 17.27 Intent of article.

The intent of this article shall be as follows:

- (1) To preserve and protect trees and other significant environmental features within the city.
- (2) To require that the design and construction of all development activity be executed in a manner consistent with the preservation of trees and other significant environmental features to the greatest extent possible.
- (3) To provide guidelines and review procedures for controlling development activity which may alter, destroy or be detrimental to existing trees, significant environmental features and scenic areas.
- (4) To provide the framework and legal mechanism for publicly identifying and preserving environmentally significant areas or sites.

Sec. 17.28 Applicability of article.

The terms and provisions of this article shall apply to real property as follows:

All property located within a designated environmental preservation district, including scenic transportation corridors.

- ~~(1) All vacant and undeveloped property.~~
- ~~(2) All property to be redeveloped.~~
- ~~(3) All property where there is to be any addition or alteration.~~
- ~~(4) All public or private rights of way.~~
- ~~(5) All property within a designated environmental preservation district.~~
- ~~(6) All developed property. However, the interior side and rear yard areas of existing single family and duplex sites shall be exempt from the provisions of this article when less than five trees are removed from the site within any six month period and where such property is not located within an environmental preservation district.~~

Sec. 17.29. Historic and environmental preservation board

The historic and environmental preservation board (hereinafter referred to as HEPB or the board) as established under section 62-186 of this Code shall be responsible for maintaining a record of unique environmentally significant lands or sites within the city. The board shall serve as the quasi-judicial instrument for granting or denying certificates of approval for tree removal and development activity within those areas identified and established as environmental preservation districts under the terms and provisions of this article.

Sec. 17-30. Preservation officer.

The preservation officer, as provided in section 62-191 of this Code shall be responsible to assist ~~the historic and environmental preservation board~~ HEPB and to carry out the following duties:

- (1) Serve as secretary to the board. The appointee shall attend all meetings of the board and maintain a record of the proceedings of the board, showing its action on each application. The appointee shall schedule and provide notification of ~~historic and environmental preservation board~~ meetings to applicants and other department and agency representatives.
- (2) Upon receipt of a proper application for tree removal or development activity within the

designated environmental preservation districts, review such application, which may shall include a field check of the site and referral to other departments or agencies as necessary to determine any adverse effect upon the general public welfare and determine whether a standard or special certificate of approval is required.

- (3) Maintain and update an official map delineating environmental preservation districts and a photographic documentation of all official designated sites.
- (4) Work with other city departments and community environmental groups as required to protect and preserve the natural environment through public education and encouraging sound environmental policies.
- (5) Evaluate applications for standard certificates of approval and render a decision based upon the standards and conditions for tree removal and the review standards for tree removal and development activity within environmental preservation districts.
- (6) Ensure that notice of the application for a special certificate of approval is given as required in section 17-39.
- (7) Prepare summary reports of all decisions on certificate of approval applications. The report shall briefly summarize the conditions and criteria for tree removal and the decision of the ~~historic and environmental preservation~~ board or preservation officer.
- ~~(8) Transmit to the department of planning, building and zoning a copy of the certificate of approval and a copy of the approved plan. A tree removal permit or building permit shall be issued by the department as required.~~

Sec. 17-31. Environmental preservation districts.

- (a) *Designation generally; intent.* Certain geographical areas or sites may be designated as environmental preservation districts by action of the city commission, recognizing the need for preservation and protection of such areas because of their educational, economic, environmental or ecological importance to the welfare of the general public and the city. Environmental preservation districts are intended to provide for preservation and protection of trees and other significant environmental and landscape features and to encourage design and development activity which is sensitive to the natural landscape character of the site. Sites with significant trees and landscape materials may be selected as environmental preservation districts because they provide important environmental functions for the welfare of the community, which include the following: stabilizing the soil, preventing erosion and excessive runoff; giving shade and cooling the land; providing protection from forceful winds; using their leaf surfaces to dilute gaseous pollutants and trap and filter out ash, dust and pollen in the air; absorbing a high percentage of carbon dioxide and returning oxygen to the air; alleviating noise pollution; increasing the value of the property; and adding to the natural scenic beauty of the city. All regulations and review procedures provided for environmental preservation districts are intended to protect the significant environmental features against needless destruction and to present guidelines which will lead to the continuance and enhancement of those features, while at the same time recognizing individual rights to dispose of property which are not prejudicial to the public interest.
- (b) *Natural or manmade environmental features.* The following natural or manmade environmental features may be designated as environmental preservation districts, when one or more such features are located in a geographical area or lot:
  - (1) Clusters of trees with extensive tree canopy, natural hammock areas and mangrove areas. Land areas which include ~~one or more clusters of trees which will total 10,000 square feet of tree canopy may be designated environmental preservation districts.~~ significant environmental features, outstanding characteristics or meet other professional criteria may be designated as environmental preservation districts by the historic and environmental preservation board. ~~Smaller areas or lots may also be designated as environmental preservation districts if the site contains at least one "specimen tree, which is defined as any tree having substantial educational, economic and aesthetic value because of its size, type, age, outstanding characteristics or other~~

~~professional criteria set forth by the state division of forestry.~~

(2) Exposed geological formations, such as natural rock outcroppings, caves, sinkholes and significant natural topography of the Coastal Atlantic Ridge.

(3) Scenic transportation corridors--those roadway areas which have a unique landscape character and an extensive tree canopy and are of substantial environmental importance to the residents of the city as well as to visitors. Dimensions and extent of scenic transportation corridors shall be determined for each specific area so designated, based upon an analysis of the corridor by qualified professional staff of the appropriate city departments. The boundaries of the scenic transportation corridors may be determined by the following:

- a. The extent of roadway right-of-way area.
- b. All established yard areas fronting on the transportation corridor.
- c. Significant natural features, such as trees, or geological features which are not within the right-of-way or street yard area but are of value as a part of the scene.
- d. Principal natural landscape or manmade elements which form the visual boundary or enclosing space of the corridor.
- e. ~~Areas from which there is a unique scenic view or vista of historical or significant structures or of water bodies, such as the Miami River or Biscayne Bay.~~
- f.e. Unique botanical features, such as rare, exotic and valuable trees or plant life or examples of excellent landscape design.

(c) *Procedure for designation.*

(1) Areas or sites to be considered as environmental preservation districts may be recommended to ~~the planning advisory board~~ HEPB by private individuals and organizations, (after providing sufficient evidence that the resource qualifies under the provisions of this code.) all city departments, ~~the historic and environmental preservation board~~ HEPB and the city commission.

(2) All areas to be considered must be evaluated by the ~~planning advisory board~~ HEPB with the appropriate recommendations conveyed to the city commission.

(3) A letter or invitation shall be delivered to the owners of all property within the boundaries of the proposed environmental preservation district, with a full explanation of the reasons for the environmental significance of the property, the effect of the proposed classification and the process by which environmental preservation districts are officially designated. The owners will be invited to appear at a public hearing before ~~the planning advisory board~~ HEPB to discuss the matter. Should there be more than fifty (50) property owners within the proposed scenic transportation corridor, a notice published in a newspaper of general circulation at least ten (10) days prior to the hearing, stating the aforementioned information and including the date, time, place and reason for the HEPB hearing shall be considered sufficient notice. The property shall then be recommended by the ~~planning advisory board to the city commission for inclusion in an environmental preservation district.~~ Following the decision of HEPB, the property may then be recommended by the ~~planning advisory board~~ the board to the city commission for inclusion in ~~designation as an environmental preservation district.~~

(4) The areas recommended by the ~~planning advisory board~~ HEPB and approved by the city commission are established as environmental preservation districts. These sites or areas are then added to the official map delineating environmental preservation districts on file with the department.

(d) *Effects of designation.*

(1) Once an area or site is officially designated as an environmental preservation district, all development activity or removal of trees within that area must be reviewed by the preservation officer, and a certificate of approval, standard or special, must be granted under the provisions of section 17-32 before a tree removal permit or a building permit will be issued by the department.

(2) When the city commission approves the designation of an area or site as an environmental preservation district, the regulations and review requirements for both the existing zoning district

~~transect and the preservation district shall apply. When the zoning regulations applying to a parcel designated as an environmental preservation district require review by the urban development review board, that body shall be responsible for reviewing applications for tree removal or development activity on that parcel, in lieu of the historic and environmental preservation board. All actions by the urban development review board on such applications shall be consistent with the intent of this article.~~

Sec. 17.32 Removal of trees not located in environmental preservation districts.

The removal of trees not located in environmental preservation districts shall follow the procedures set forth in Article I of this chapter entitled "Tree Protection In General".

~~(a) *Permit required.* No person and no agent or representative thereof, directly or indirectly, shall cut down, destroy, move or effectively destroy through damaging any tree situated on any real property as described in section 17-28, without first obtaining approval and a tree removal permit as hereinafter provided. No permit for development activity shall be issued by the department or neighborhood enhancement team until it has determined that no tree removal permit is required or that a valid tree removal permit has been issued in compliance with this article.~~

~~(b) *Application.* Permits for removal, relocation or replacement of trees covered herein shall be obtained by making application for permit to the department. The application shall include a written statement indicating the reasons for removal, relocation or replacement of each tree. Applications involving development activity shall be accompanied by three copies of a legible site plan drawn to a minimum scale of one inch equals 20 feet, indicating the following:~~

~~(1) Location of all existing or proposed structural improvements and site uses, properly dimensioned and referenced to property lines, setback and yard requirements and spatial relationships.~~

~~(2) Existing and proposed site elevations, grades and major contours.~~

~~(3) Location of existing or proposed utility services.~~

~~(4) The location, common and botanical name, trunk diameter, and approximate height and spread of all trees on the site, designating the trees to be retained, removed, relocated or replaced. Groups of trees in close proximity may be designated as "clumps" of trees, with the predominant type and estimated number and average diameter noted.~~

~~(5) Tree information required above shall be summarized in legend form on the plan and shall include the reason for proposed removal, relocation or replacement.~~

~~(c) *Review.* Upon receipt of a completed application, the department shall review such application for compliance with the criteria and conditions for tree removal in section 17-34. Such review may include a field check of the site and referral of the application to other departments or agencies as necessary to determine any adverse effect upon the general public welfare, adjacent properties or city services and facilities. Within 15 days of receipt of a completed application, the department shall render a decision.~~

~~(d) *Board review.* Any member of the historic and environmental preservation board may:~~

~~(1) Require any application for a tree removal permit to be reviewed by the entire historic and environmental preservation board; or~~

~~(2) Within ten days after the granting of tree removal approval by the department, require any such application to be reviewed by the entire historic and environmental preservation board. The historic and environmental preservation board shall hold a public hearing and render a decision on the matter within 45 days from the issuance of the tree removal permit. In the case of such a review, the decision of the historic and environmental preservation board shall supersede any action of the department and constitute a final decision subject to a subsequent appeal to the city commission.~~

~~(e) *Effective date.* All permits for removal of trees not located in an environmental preservation district shall not become effective until at least ten days after the date of approval; and no removal of a tree or development activity shall commence on the site prior thereto.~~

~~(f) *Permit cards.* Within 24 hours of the approval of a tree removal permit under this section, a weatherproof copy(s) of such permit shall be erected in full view of the public within five feet of each~~

~~street side or side nearest a street of the property for which the permit has been issued. The property owner shall be responsible for ensuring that such permit is so displayed until the authorized work is completed.~~

Sec. 17.33. Removal of trees and development activity within environmental preservation districts.

(a) *Certificate of approval required.* No person, agent or representative thereof, directly or indirectly, shall cut down, destroy, move or effectively destroy through damaging any tree or other environmentally significant feature within an environmental preservation district without first obtaining a certificate of approval and must abide by tree removal as set for in ~~section 17.4~~ Article I of this Chapter. No person, agent or representative thereof shall commence any development activity within an area visible from a public way within an environmental preservation district without first obtaining a certificate of approval, standard and special, as hereinafter provided:

(1) Standard certificates of approval may be issued by the preservation officer, without review and approval by the historic and environmental preservation board, for the following classifications of applications:

- a. Applications for development activity where all existing trees ~~(other than those covered by subparagraphs (a)(1)b and (a)(1)c below)~~ are to be preserved or relocated on site.
- b. Applications for removal of trees which are diseased, injured, in danger of falling, or interfere with utility service, create unsafe vision clearance, or conflict with other ordinances or regulations.
- c. Application for removal of trees which are listed in section 17-37 ~~(e) as undesirable.~~
- d. Applications involving tree removal and additions or modifications to existing building, except where such addition exceeds 50 percent of the existing lot coverage.
- e. Applications involving tree removal and site improvements for existing buildings such as but not limited to fences, walls, patios, driveways, pools, etc.

(2) Special certificates of approval require the approval of the historic and environmental preservation board, and include the following classifications of applications:

- a. Applications for new development involving removal of existing trees from the site or alteration of other environmentally significant features.
- b. Applications for development activity or tree removal not listed in paragraph (a)(1) above as eligible for a standard certificate of approval.
- c. Applications referred to the historic and environmental preservation board on appeal from decisions of the preservation officer, or from the general public as described in Section 17.8.

(b) *Applications.* All applications for a certificate of approval within environmental preservation districts shall be initially made to the preservation officer. Applications shall include the following and shall remain on file with the city:

(1) An official application form, including all requested information, signed by the property owner.

(2) Refer to Section 17.4.2. Application requirements, (a),(b),(c),(d), and (e) for the required documentation that shall accompany applications.

~~A certified tree survey, prepared by a registered land surveyor or landscape architect (except that for developed single family and duplex dwelling units such survey may be prepared by the homeowner). Such survey shall show the location of all existing trees upon the buildable area and the yard area of the entire site as well as all structures, paved areas, and natural features. Tree information shall be summarized in legend form and shall contain the botanical and common name, trunk diameter, approximate height, and approximate spread of all trees and landscape features on the site. Groups of trees less than three feet apart may be designated as clumps, with the exception that any tree with a trunk diameter six inches or more must be specifically designated. For large site areas on which development activity or tree removal is to occur on only a portion of the site, the required tree survey shall exclude those portions of the site which will not be affected by the development or the removal activity. The preservation officer shall determine the proper extent of the tree survey.~~

~~(3) A minimum of two photographs adequately showing the general landscape character of the site and at least one photograph clearly showing each tree proposed to be removed. Each photograph shall be clearly labeled and keyed to the site plan.~~

~~(4) In cases of applications involving only tree removal and no other development activity, the following information shall be indicated directly upon the tree survey:~~

- ~~a. Existing trees to be removed from the site.~~
- ~~b. Existing trees to be relocated, including positions before and after relocation.~~
- ~~c. Existing trees to remain in position.~~
- ~~d. Location, common and botanical name, caliper, height and spread of all proposed new trees or other plant material~~

~~(5) Applications involving development activity which require a building permit shall submit a site plan drawn at a minimum scale of one inch to 20 feet including the following:~~

- ~~a. Location, shape and spatial arrangement of all existing and proposed buildings, walls, structures and natural features.~~
- ~~b. General location and description of surrounding buildings and land areas.~~
- ~~c. Location, shape and spatial arrangement of all parking areas and access roads.~~
- ~~d. Existing and proposed grading.~~
- ~~e. Proposed utility services.~~
- ~~f. Setback and yard requirements.~~
- ~~g. Existing trees to be removed from the site.~~
- ~~h. Existing trees to be relocated, including positions before and after relocation.~~
- ~~i. Existing trees to remain in position.~~
- ~~j. Proposed landscape plan indicating location, common and botanical name, caliper, height, and spread of all proposed new trees and other plant material.~~

k.(3) Signature of a planning, building and zoning official indicating compliance with applicable zoning regulations or specifying variances necessary for permitting.

*(6c) Application review.* The preservation officer shall review the application, which ~~may~~ shall include a site inspection or referral to other departments, and determine whether the type and extent of the proposed work falls within the jurisdiction of a standard certificate of approval or a special certificate of approval.

(1) Where an application is eligible for a standard certificate of approval, the preservation officer shall, within 15 days of receipt of a completed application, issue such standard certificate of approval, with or without conditions, or deny such standard certificate of approval with specified reasons therefore.

(2) Where the nature and extent of proposed work requires a special certificate of approval, the historic and environmental preservation board shall hold a public hearing and take action within 45 days of receipt of a completed application. The board shall either authorize a special certificate of approval, with or without conditions, or deny such special certificate of approval with specified reasons therefore.

(d) *Permits.* No permit for development activity or tree removal within an environmental preservation district shall be issued by the building department ~~of planning, building, and zoning~~ until a certificate of approval has been issued pursuant to this article. Such permit applications shall be approved by the preservation officer to verify conformance with the certificate of approval. Tree removal permits authorized by a standard certificate of approval shall be subject to the ten-day delayed effective date and posting requirements of section ~~17.32(e) and (f)~~ 17.4.4

(e) *Changes in approved work.* Any change in work proposed subsequent to issuance of a

certificate of approval shall be reviewed by the preservation officer to determine whether such change would materially affect the certificate of approval. If so, such change shall require a new certificate of approval pursuant to all standards and procedures in this article.

Sec. 17.34. Criteria and conditions for tree removal.

(a) *Criteria for removal.* No permit shall be issued for tree removal from the site, unless one of the following conditions exists:

(1) The tree is located in the buildable area or yard area where a structure or improvement may be placed and unreasonably restricts the permitted use of the property. Trees located in the property frontage ( within the setback) shall not be considered to be located within the building area or yard.

Ingress and egress to garages are not considered the buildable area or yard.

(2) Trees on the public right-of-way shall not be considered for removal as a result of restriction to or from ingress or egress to the garages or parking on the site, provided however, that if there is no other reasonable access to and from the structure or to the property from the public right-of-way, this requirement shall be waived by the Director of Code Enforcement when it relates to private property and/or by the Director of Public Works when it relates to the public right-of-way.

~~(23)~~ The tree is diseased, injured or in danger of falling, interferes with utility service, creates unsafe vision clearance or conflicts with other provisions of this Code or other ordinances or regulations.

~~(34)~~ The tree is an exotic tree species and will be replaced with a native tree species to promote good forestry practices; creates a health hazard; interferes with native tree species or creates a negative impact on natural land features such as rock outcroppings, sink holes or other geological, historical or archaeological features.

~~(45)~~ It is in the general welfare of the public tha the tree be removed for a reason other than set forth above.

(b) *Conditions for relocation and replacement.* As a condition to the granting of a tree removal permit, ~~the applicant will be required, where practical, to relocate, remove or replace the trees on the site as follows~~ any or all of the following may be required.

~~(1) All trees on the site which are to be removed may be relocated on the site within the building area or the yard area.~~

~~(2) If it is impractical to relocate a tree which must be removed on the site, the city may require that the tree be removed and replanted on city owned property at the city's expense.~~

(1) The applicant may be required to redesign the project to preserve specimen tree(s) or any other tree determined by the istoric and environmental preservation board to be of substantial value due to its species, size, age, form and/or historical significance; provide an alternative plan, when feasible, which shall include the preservation of such tree(s) and design alterations within the scope and intent of the initially proposed plan. The applicant shall provide sufficient information, to include a tree survey drawn to scale that illustrates all existing site conditions and a tree disposition plan drawn to scale that superimposes all proposed new construction including all overhead and underground utilities and the new locations of trees over the tree survey plan information. The historic and environmental preservation board will review and analyze the aforementioned information, in order to determine the appropriate course of action.

(2) Where practical, specimen trees, or any other trees determined by the department to be of substantial value due to its species, size, age, form and/or historical significance, that is proposed for removal shall be relocated on or off-site. The applicant shall adhere to acceptable tree relocation specifications.

(3) If it is impractical to relocate and replant such trees of substantial value, to be removed either on

~~the site or off the site, because of age, type or size, the tree may be destroyed either be removed, or the applicant may be required to redesign the project to preserve the tree. demonstrate a "good faith" effort to redesign the project to protect and preserve the trees. The applicant shall be required to replace all trees permitted to be removed in accordance with the tree replacement requirements contained in Section 17.1~~

~~(4) In the event that a tree is permitted to be destroyed, an applicant may be required to replace the tree with new trees of comparable size, nature and beauty, as determined by the department of planning, building and zoning or the preservation officer or by the historic and environmental preservation board. In no instance, however, shall the replacement tree be less than 15 feet in height and three inches in diameter.~~

~~(4) The historic and environmental preservation board may require that the applicant provide a written report from a certified arborist before making any determinations in conjunction with this section. The historic and environmental preservation board may also require monitoring by a certified arborist during construction to assure tree preservation.~~

(5) In determining the required preservation, relocation, or replacement of trees, the following factors shall be considered:

- a. Existing tree coverage on the site and in the immediate surrounding area.
- b. Number of trees to be removed on the entire site.
- c. The type, size and condition of the tree(s) to be removed.
- d. The feasibility of relocating the particular tree or trees.
- e. Topography and drainage of the site.
- f. The extent to which the trees contribute to the aesthetic, economic and environmental integrity of the surrounding area.
- g. The nature of the existing and intended use of the property.

~~(6) Where tree relocation or replacement is required, the approval agency may require that landscape plans be prepared by a landscape architect licensed under F.S. ch. 481 and/or that landscape work be carried out by a licensed landscape contractor. The approval agency may require the applicant to provide and adhere to acceptable specifications for tree relocation or replacement. The approval agency may further require that sufficient bond be posted to ensure proper compliance with terms and conditions of the tree removal permit.~~

#### (6) Tree Replacement

Tree replacement shall be as directed in Section 17.6.1. which includes a Tree Replacement Chart 17.6.1.1 as well as a Tree Species Diversity Chart 17.6.2.1 in Section 17.6.2. Tree Species.

#### Sec. 17.35. Tree protection and survival.

(a) During construction, all reasonable steps necessary to prevent the destruction or damaging of trees shall be taken. Trees destroyed or receiving major damage must be replaced by trees of equal environmental value as specified in Section 17.6 ~~by the department of planning, building and zoning or preservation officer or by the historic and environmental preservation board~~ before occupancy or use unless approval for their removal has been granted under permit.

(1) Trees that are to remain shall be clearly identified with tags.

~~(1) (2) During construction, protective barriers shall be placed with a radius of 10 feet around the trees to remain in accordance with the landscape manual, unless a certified arborist otherwise determines in writing that a smaller or larger protected area is acceptable for each tree, or an alternative tree protection method is recommended. at the drip line around the trunks of all trees to be~~

~~retained on the site to prevent the destruction or damaging of the trees-~~

(3) During demolition and/ or development, including installation of irrigation systems or any other underground installations, protective barriers shall be placed around each tree and shall remain in order to prevent the destruction or damage to roots, stems or crowns of such trees. The barriers shall remain in place and intact until such time as approved landscape operations begin; however, barriers may be removed temporarily to accommodate construction needs, provided the manner and purpose for such temporary removal will not harm the trees. The trees shall be properly irrigated throughout the building process. Trees damaged during construction shall be subject to the provisions of Section 17.9.

~~(2)~~ (4) If at all practical, underground utility lines, curbs and other above grade structures should be routed around existing trees to the outside of the drip line of the tree. In the event that this is not feasible, a tunnel made by a power-driven soil auger may be placed under the tree for installation of utility lines, or a trench passing by the side of the tree may be used for construction of curbing or to accommodate the installation of utility lines. If a trench is used, care should be taken that as few roots as possible are cut, that the cuts are made cleanly, and that the root ends are painted with a wound dressing of asphalt base paint and immediately covered with soil.

~~(3-5)~~ During construction, unless otherwise authorized by the tree removal permit, no excess soil, additional fill, equipment, liquids, or construction debris shall be placed within the drip line of any tree that is required to be preserved in its present location unless the addition of excess soil or fill is required in order to comply with either the flood criteria requirements contained in chapter 11C of the Code of Metropolitan Dade County, Florida, and/or federal flood regulations in high flood hazard locations.

( ) (6) Unless otherwise authorized by the tree removal permit, no soil is to be removed from within the drip line of any tree that is to remain at its original location.

~~(5-7)~~ No wires or utility service attachments, other than those of a protective nature, shall be attached to any tree

~~(6-8)~~ Subsequent to construction or the satisfactory stabilizing of a tree, all protective devices shall be removed. The owner of the project on which the tree is located, the applicant for a tree permit or the individual performing physical moving of a tree, shall be fully liable and responsible for removal of the devices.

(b) All trees transplanted pursuant to this article shall be maintained alive and healthy ~~in~~ at the site of the transplant for a period six months following completion of construction work on the site. Any of such trees which die within such six months shall be replaced by the applicant. The Code Enforcement department of planning, building and zoning shall retain jurisdiction to ensure compliance with this section.

#### (c) Tree pruning/Trimming.

The pruning or trimming of any tree shall be done in accordance with ANSI A-300 Tree Care Standards and the guidelines illustrated in the landscape manual, incorporated by reference herein. The practice known as "hatracking" or "topping" is not permitted and shall be considered a violation of this article. The historic and environmental reservation board may require that a certified arborist monitor the trimming and provide the department with photographic documentation following the trimming. Any other tree abuse, or activity that can effectively destroy a tree, shall also be considered a violation of this article.

Sec.17.36 Environmental preservation review standards for tree removal and development activity.

The following standards shall be used by the preservation officer or historic and environmental preservation board in reviewing all site plans, building plans and applications for tree removal within those areas designated as environmental preservation districts. These standards are intended to provide a frame of reference for the applicant, as well as to provide a basis for reviewing plans and

proposals. These standards are not to be regarded as inflexible and are not intended to discourage innovation or creativity. Development should:

- (1) Preserve the natural environmental character of all sites, insofar as practical, by minimizing removal of trees or other significant environmental features.
- (2) Preserve or enhance existing topography and natural land features wherever possible.
- (3) Use only those signs for identification of principal use. Signs should be of a size, shape and color which are compatible with the surrounding environment. The size of the signs should bear a direct relationship to the rate of speed of passersby, not exceeding a maximum size necessary for recognition.
- (4) Provide visual screening of all parking areas, service areas or storage areas by using landscaping and building materials which are compatible with the surrounding landscape character.
- (5) Maintain the continuity of landscape material and spacing characteristic of the surrounding area or scenic corridor. If the development occurs along a designated scenic corridor, the principal natural landscape or manmade elements which form the visual boundaries or enclosing space of the corridor shall be preserved, insofar as possible.
- (6) Consider the impact of public and private improvements upon the ecological needs of the area. Roadway improvements within scenic corridors and other unique areas should not disrupt or distract from the existing natural environment.

Sec. 17.37 Exceptions and exemptions from article requirements.

(a) During the period of an emergency, such as hurricane, tropical storm, flood or other act of God, or in the event that any tree shall be determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety of the community, or when the tree prevents a person from the use or enjoyment of the property; or when removal of the tree will prevent further damage and to require immediate removal, its immediate removal is required, the applicant shall provide photographs and any other supporting materials which will allow with a sound judgment to be made. Upon such a finding, the requirements of this article may be waived by the city manager.

~~(b) All license plant or tree nurseries shall be exempt from the terms and provisions of this article, in relation to those trees planted and growing on the premises of such licensee which are so planted and growing for sale to the general public in the ordinary course of such licensee's business.~~

(b) Prohibited trees shall be exempt from the replacement requirements of this article, but shall require a tree removal permit. Prohibited trees are those tree species that are detrimental to native plants, native wildlife, ecosystems, and human health, safety or welfare. Prohibited tree species includes those designated in the Miami-Dade County Landscape Manual, incorporated by reference herein, and the Ficus Benjamina/Weeping Fig. These species must be removed from sites upon site development.

~~(c) The following types of trees are considered to be undesirable exotic species or otherwise undesirable and shall be exempt from the provisions of this article relating to permit fees and application fees:~~

- ~~(1) Melaleuca quinquenervia (cajeput or paperbark tree).~~
- ~~(2) Casuarina equisetifolia (Australian pine, beefwood).~~
- ~~(3) Casuarina glauca (Brazilian oak, scaly bark beefwood).~~
- ~~(4) Schinus terebinthifolius (Brazilian pepper).~~
- ~~(5) Bischofia javanica (bishopwood).~~
- ~~(6) Ricinus communis (castor bean).~~
- ~~(7) Trees which are no longer viable.~~
- ~~(8) Trees which are required to be removed by law.~~

This article incorporates by reference the City of Miami Tree Master Plan listing of prohibited species, and in addition the Ficus Benjamina/ Weeping Fig shall be considered a prohibited species within the City of Miami.

~~(c)~~ Nothing in this article shall be construed to prevent the pruning of trees where necessary for proper landscape maintenance and safety, provided that the pruning and trimming of trees is done in accordance with ANSI A-300 Tree Care Standards and the guidelines illustrated in the landscape manual. no more than 30 percent of the crown or foliage is removed. Root pruning may be carried out by a licensed landscape contractor prior to issuance of a tree removal permit.

Sec. 17.38 Removal of trees from public lands.

No tree shall be removed from any public land, public park or public right-of-way, except in accordance with article III of this chapter.

Sec. 17.39. Public notice of applications for special certificates of approval.

Public notice is required for all applications for a special certificate of approval in environmental preservation districts. The type and manner of notice will be as follows:

(1) *Posted notice.* Property being considered for a permit under this article shall be posted with a sign at least ten days in advance of the public hearing. The sign shall measure at least three square feet in area, shall be of a color and shape distinguishable from the surrounding landscape, and shall contain substantially the following language: \_

A public hearing involving approval of a permit for tree removal or development on this property will be held by the historic and environmental preservation board of the City of Miami.

Description of activity:

Place of hearing:

Time:

For additional information call 311 579-6086

The sign shall be erected in full view of the public on each street side or side nearest a street of the property being considered for such permit.

(2) *Mailed notice.* Notice of the time and place of the public hearing by the historic and environmental preservation board shall be sent at least ten days in advance of the hearing, by mail, to the owner of the subject property and the owners of the adjacent property and other departments or agencies deemed appropriate by the board.

(3) *Published notice.* The published notice shall contain a description of the activity and the time and place of the hearing. Publication shall be made in the following:

a. A daily newspaper of general circulation in the city;

b. A daily newspaper of general circulation in the city, devoted primarily to reporting of financial, business, industrial and legal information; and

c. A newspaper devoted primarily to reporting information of interest in an area or locality of the city.

Such publications shall be made not less than ten days in advance of the public hearing and shall be prepared and paid for by the city. These publications shall be sent to the NET office for distribution to the registered homeowners' associations.

Sec. 17.40 Appeals.

(a) *Appeals to the historic and environmental preservation board.* Any citizen may appeal any decision of the department of planning, ~~building and zoning in~~ and the code enforcement ~~Department~~ of any term or provision of this article to the ~~HEPB historic and environmental preservation board~~, by filing, within ten days after the date of the initial decision, a written notice of appeal ~~with the city manager, with a copy to the city clerk and the preservation officer, which shall set forth precisely the decision appealed from and the reasons or grounds for the appeal.~~ Each appeal shall be accompanied by the applicable fee. The enforcement agency shall immediately issue a stop work order for any work which could be affected by the subject appeal, pending final disposition of the appeal. ~~The historic and environmental preservation board shall hear at a public hearing all facts material to the appeal and render a decision within 45 days of the filing of such appeal. The historic and environmental preservation board may affirm, modify or reverse the decision appealed from,~~

provided that the board shall not take any action which conflicts with or nullifies any of the provisions of this article.

(b) *Appeals to the city commission.* Any citizen may appeal any decision of the historic and environmental preservation board ~~or of the urban development review board~~, as it relates to this article, to the city commission by filing within ten days after the date of the decision, a written notice of appeal with the city manager, with a copy to the city clerk and the preservation officer, which shall set forth precisely the decision appealed from and the reasons or grounds for the appeal. Each appeal shall be accompanied by the applicable fee. The enforcement agency shall immediately issue a stop work order for any work which could be affected by the subject appeal, pending final disposition of the appeal. The city commission shall hear and consider all facts material to the appeal and render a decision within 45 days of the filing of such appeal. The city commission may affirm, modify or reverse the board's decision. The decision of the city commission shall constitute final administrative review, and no petition for rehearing or reconsideration shall be considered.

#### 17.41. Penalties, remedies cumulative

Any person, or agent thereof, violating the provisions of any section of this article shall, upon conviction, be subject to the penalties in ~~section 1-13, in the discretion of the county judge~~ this Chapter or any other penalties as provided by law. The removal, relocation or destruction of each tree for which a tree removal permit is required-without a proper permit on the job site shall constitute a separate offense under this article.

#### Sec. 17.42. Civil remedies.

In addition to any other remedies provided by law and by ~~to~~ this article, the enforcement agency shall have the following judicial remedies available for violations of this article or any permit condition promulgated under this article:

- (1) The enforcement agency may institute a civil action in a court of competent jurisdiction to establish liability and recover liquidated damages for each violation in an amount of not more than \$5,000.00 per offense. Each tree unlawfully removed under the provisions of this article shall constitute a separate offense hereunder.
- (2) The enforcement agency may institute a civil action in a court relief to enforce compliance with this article to enjoin any violation hereof and to seek injunctive relief to prevent irreparable injury to the trees or properties encompassed by the term of this article.

#### Sec. 17.43 Fees.

- (a) Standard certificate of approval: Minimum ~~\$25.00~~ \$26.00 plus \$5.00 ~~per~~ for every tree to be removed, ~~or~~ relocated or newly planted.
- (b) Special certificate of approval: \$26.00.
- (c) All applications for permits for the removal of trees shall be accompanied by a fee, as provided for under section 10-4, as amended, "Building Permit Fee Schedule," of the Miami City Code. ~~5-~~ "Building permit fee," of Ordinance No. 6145, as amended.
- (d) All appeals ~~pursuant to section 17-40~~ shall be accompanied by a fee of \$300.00, except that no fee shall be charged for such appeals initiated by agencies of the city or by an owner in fact of a property adjacent to the subject property or by a nonprofit corporation dedicated to conservation and protection of the natural and physical environment.

#### Sec. 17.44 Enforcement.

- (a) The department of code enforcement, its inspectors and the planning department shall have concurrent jurisdiction for the proper and effective enforcement of this article under Chapter 2, Article X entitled Code Enforcement.
- (b) The enforcement agency shall immediately issue an order to cease and desist any work being carried out in violation of this article or any permit conditions promulgated under this article. Upon notice of such violation, no further work shall take place until appropriate remedial action is instituted,

as determined by the enforcement agency.

(c) In cases where tree removal is carried out without the necessary permit under the terms and conditions of this article, the property owner shall be required to make application for an after-the-fact tree removal permit and certificate of approval, if applicable. The appropriate reviewing agency may grant an after-the-fact certificate of approval or tree removal permit only if it finds that the same application would have rightfully been approved prior to removal of the tree(s), and that each tree destroyed is to be replaced by trees of equal or greater value. Such replacement trees shall be located on the subject site wherever practical, or they may be required to be located on public property. Such replacement shall be assured by a performance bond or by a cash contribution to a tree planting fund established by the city. If the conditions for an after-the-fact tree removal permit are not fulfilled, the case shall be referred to the law department for appropriate action under sections 17-41 and 17-42.

Sec. 17.45 Fine.

Any person, or agent thereof, who removes a tree without a tree removal permit, shall be fined a fine of up to one thousand dollars (\$1000.00) per violation, per day for the first violation, and shall be fined up to five thousand dollars (\$5000.00) per tree for every repeat violation of this ordinance, or a greater penalty as provided by law, and in addition undergo the tree replacement process in the form of replacement trees pursuant to Article I of this Chapter. Each tree removed without a tree removal permit shall constitute a separate and distinct violation, subject to a separate fine and tree replacement pursuant to Article I in this Chapter.

Sec. 17.46 Tree replacement required.

In addition to the monetary fine established above, the planting of replacement trees shall be required. The number of trees required as replacement for each tree that was removed without a permit shall be based upon chart 17.10.2.1 tree replacement chart for trees removed without a permit. If the total number of trees required as replacement trees cannot be reasonably planted on the subject property, the applicant may contribute into the city's tree trust fund in an amount based upon chart 17.10.2.1 for the balance number of replacement trees that cannot be planted on the subject property.

Sec. 17.47. Tree Replacement for Trees Removed Without a Permit

Refer to the Tree Replacement Chart 17.10.2.1, in Article I of this Chapter.

Sec. 17.48 Withholding of a new building permit. The removal of any tree in violation of this article shall constitute grounds for withholding new building permits directly related to said tree removal until the violation has been corrected, including the payment of all fines and the planting of all trees required as replacement trees pursuant to this section. Alternatively, in order to obtain the new building permit, the person in violation may post a payment and performance bond pursuant to F.S. § 255.05 naming the City of Miami as obligee. The bond shall be in the amount of ten (10) percent of the construction cost or ten percent of the appraised value of the property, if no construction exists. The bond will be maintained in place until the violation has been corrected, pursuant to this section. In the event a bond is not feasible, the city may accept an irrevocable, unconditional letter of credit, in the previously stated percentages, naming the city as payee. This section shall not apply to complete applications submitted to the city on the effective date of this ordinance.

Sec. 17.49 Withholding of a certificate of occupancy. The department shall not approve the zoning inspection required for a temporary or final certificate of occupancy until all violations of this article have been corrected, including the payment of all fines and the planting of all trees required as

replacement tree mitigation, pursuant to this section.

Sec. 17.50 Remedies cumulative. The remedies provided in this section shall be cumulative to all remedies provided by law and/or equity, and the election of one shall not preclude the other.

Secs. 17-512-17.70. Reserved

\* \* \*

Section 3. If any section, part of a section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 4. This Ordinance shall become effective immediately upon its adoption and signature of the Mayor.{2}

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**Footnotes:**

{1} Words and/or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

{2} This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.