WINDERMERE TREE BOARD

Chair: Frank Krens
Vice Chair: Vicki Hearst
Secretary: Bonnie Di Cocco
Treasurer: Pamela Schrimsher
Joan Foglia
Olga Aleksandrova
Elena LaRochelle

Agenda ***Agenda***

Council Liaison: Brandi Haines

March 12, 2025
9:15 AM

PW CONFERENCE ROOM
614 MAIN STREET, BUILDING 200
WINDERMERE, FL 34786

PLEASE TURN OFF ALL CELL PHONES AND PAGERS

PLEASE NOTE: IN ACCORDANCE WITH F.S. 286.26: Person with disabilities needing assistance to participate in any such proceedings should contact the Office of the Clerk at least 48 hours beforehand at (407) 876-2563.

Pursuant to Resolution No. 2005-12 adopted on December 13, 2005, the following Civility Code shall govern all procedings before the Town of Windermere Windermere Tree Board:

1. All electronic devices, including cell phones and pagers. shall be either turned off or otherwise silenced.
2. Prolonged conversation shall be conducted outside Council meeting hall.
3. Whistling, heckling, gesturing, loud conversations, or other disruptive behavior is prohibited.
4. Only those individuals who have signed the speaker list and/or/who have been recognized by the Mayor (or Chair) may address comments to the Council.
5. Comments at public hearings shall be limited to the subject being considered by the Council
6. Comments at Open Forums shall be directed to Town issues.
7. All public comments shall avoid personal attacks and abusive language
8. No person attending a Windermere Tree Board meeting is to harass, annoy, or otherwise disturb any other person in the room.

Any member of the public whose behavior is disruptive and violates the Town of Windermere Civility Code is subject to removal from the Windermere Tree Board meeting by an officer and such other actions as may be appropriate. PLEASE NOTE: IN ACCORDANCE WITH F.S. 286.0105: Any person who desires to appeal any decision at this meeting will need a record of this proceeding. For this, such person may need to ensure that a verbatim record of such proceeding is made which includes the

AGENDA

1. THE MEETING IS CALLED TO ORDER BY THE CHAIR
2. OPEN FORUM / PUBLIC COMMENT (3-Minutes Limit)
3. OLD BUSINESS
    a. Trailer Repairs and Restocking Status
    b. Tree Ordinance Revision Status
    c. Status and Issues of the 500 Block Development
4. NEW BUSINESS
    a. Minutes for the February 20, 2025 meeting (Attachments)
    b. Reviewing and approving tree board ordinance changes (Attachments)
    c. Treasurer's Report - Pam Schrimsher
    d. Strategic planning initiatives
5. OTHER ITEMS FOR CONSIDERATION
    a. Date and time for next meeting: April 17 at 9:15 am
        i. Discussion regarding next meeting agenda
6. ADJOURN

Windermere Tree Board

Minutes DRAFT

February 20, 2025

Mission Statement: Augment community awareness of our Urban Forest, provide education regarding the benefits of trees and a commitment to protect, preserve and proliferate our community's Urban Forest. Beautify our Windermere Parks and Recreation Areas.

Tree Board Members: Frank Krens-Chairman, Pamela Schrimsher-Treasurer, Vicki Hearst- Vice Chair, Bonnie DiCocco-Secretary, Joan Foglia, Olga Aleksandrova, Elena LaRochelle

1. THE MEETING IS CALLED TO ORDER BY THE CHAIR

The meeting was called to order with a quorum at 9:20am.

- Tree Board members Vicki Hearst, Pam Schrimsher, Olga Aleksandrova, Elena LaRochelle, and Frank Krens were present. Joan Foglia listened by phone.
- Public Works Director/Assistant Town Manager Tonya Elliott-Moore participated.
- Town Council Brandi Haines participated

2. OPEN FORUM / PUBLIC COMMENT (3-Minutes Limit) - None

3. OLD BUSINESS

a. Tree Giveaway Review. Follow-up Needed, Lessons Learned

Vice Chair Vicki Hearst provided a summary as follows:

- We bought 109 trees
- We gave away all Arbor Day trees
- 10 Centennial trees remain, to be planted in Windermere parks
- We plan to buy about 30 more Centennial trees for residents after the Centennial Fair in April/May.
- We will provide plaques to Centennial tree recipients after we verify that the trees were properly planted.

Frank Krens congratulated the Tree Board members for a successful project in all regards and thanked Tonya Elliott-Moore for her leadership and support and for Public Works efforts unloading and handling the trees.

Regarding lessons-learned, Vicki said that:

- Resident walk-ins created problems and should not be permitted.

- The 30-gallon trees were too hard to handle.
- The 11am end time worked well.
- The bagged mulch was a big hit.

Pam said some things should be done earlier:

- Make tags with tree information, laminate and tie to the trees with twine.
- Print new banners (two), showing “Today” vs a date so they will be easily reusable. Obtain moisture resistant tubes for secure storage of the banners.

b. Tree Board Trailer Repairs Status

Status - Frank reported that the rotted floor plywood section and the rooftop vent have been replaced, that he obtained a new foot for the jack, and that he found a set of new padlocks in the trailer.

Actions Remaining

- Frank said he will install the jack foot and get a duplicate set of keys for the padlocks.
- Vicki suggested a subcommittee to review items removed from the trailer (stored temporarily in the Public Works garage bay), discard items no longer needed, and move the keepers back into the trailer. Frank suggested use of large trash cans to store the fence sections and the posts. Vicki commented that we will need to secure whatever storage method we use to the trailer wall. <u>The subcommittee is to meet February 27, at 1pm at the Public Works garage bay.</u>

c. Tree Ordinance Revision Status

The subcommittee met on February 5, 2025 and made numerous recommendations. Tonya forwarded the recommendations for consideration by the Town Planner. The subcommittee will meet again on February 26 to complete the review.

d. Update on Near-Term Strategic Plan Actions

(1) Develop a landscape plan for the schoolhouse property – After discussion it was agreed to make this a focus of the next meeting, starting with a review of the concept generated by Stephen Withers.

(2) Hold an educational event at the Windermere 60s Plus Social – After discussion it was agreed to obtain/recruit a speaker to address the door-knocking tree-cutting companies who frighten residents to unnecessarily cut down trees in their yards.

(3) Complete the update of the Tree Ordinance

4. NEW BUSINESS

a. MINUTES

The Board reviewed the minutes of the November 2024, December 2024, and January 2025 meetings. Pam made a motion to approve the minutes of all three meetings with corrections made as noted. Vicki seconded and the motion passed unanimously.

Elena made a motion to approve the minutes of the December 11 Subcommittee meeting, Vicki seconded and the motion passed unanimously.

b. Potential Agenda Items for Next Meeting

Work details of the near-term strategic plan actions

Status and Issues of the 500 Block Development – Tonya recommended that Vicki talk with Town Engineer John Fitzgibbon regarding plans and timeframe for planting of trees, potentially to include planting of Centennial trees, in the right-of-ways adjacent to the project and report back at the next meeting.

Trailer Repairs and Restocking Status

5. OTHER ITEMS FOR CONSIDERATION - none

a. Date and time for next meeting – Wednesday March 12, 2025 (a one-time change from our normal Thursday meeting), 9:15am

6. ADJOURN – Elena moved to adjourn, Pam seconded and the meeting was adjourned at 10:52am.

DIVISION 5.01.00. TREES

Sec. 5.01.01. Purpose.

The purpose of this division is to:

(1) Sustain the forest canopy and the urban forest of the town for future generations.

(2) Establish rules and regulations governing the protection of trees within the town.

(3) Preserve the proliferation of trees as well as their replacement within the town.

(4) Maintain public and private trees in a healthy and non-hazardous condition through good arboricultural practices.

(5) Establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest.

(6) Minimize the removal of protected trees.

(7) Require compensation for the loss of protected, heritage and specimen trees in all stages of maturity on public and private property.

(8) Preserve the community's character and quality of life well into the future.

Sec. 5.01.02. Intent of Tree City USA Program.

The Town of Windermere desires to be an active participant of the Tree City USA program and to achieve the standards set forth by the Arbor Day Foundation. The Town shall adopt and enact administrative policies, regulations, standards and procedures necessary to ensure the town, which has been declared a "Tree City USA" community, will continue to be a recognized participant in this program.

Sec. 5.01.03. Definitions.

ANSI means the American National Standards Institute.

Best management practices (BMP) means the best-available, industry-recognized courses of action, in consideration of the benefits and limitations, based on scientific research and current knowledge.

Buildable area means the portion of the site on which a structure or improvement may be erected.

Caliper means a nursery standard measurement of a tree's trunk diameter as measured at a predetermined point of measurement. Trunk caliper for trees up to four inches shall be measured six inches above the soil line. Trees greater than four inches in caliper shall be measured 12 inches above the soil line. Caliper measurements used when measuring replacement trees are one inch greater than DBH measurements.

Canopy means collective branches and foliage of a tree or group of trees' crowns. A canopy can be closed or partially closed as in a forest or woodland stand or composed of both individual trees and closed canopy groups as in an urban forestry canopy.

Certified arborist means a professional who possesses the technical competence gained through experience, related training, and professional certification to provide for or supervise the management of trees and other

woody plants in residential, commercial, and public landscapes. These arborists must be certified by the International Society of Arboriculture.

Clump(s) of Trees means a group of two or more protected trees of similar species whose trunks are spaced five feet or closer from trunk to trunk. Clumps of trees may be shown on a site plan with common and botanical name, the estimated number of trees, and average DBH of trees in the clump. In lieu of individual protected trees. specimen and heritage trees must be represented individually and may not be included as part of a designated clump of trees.

Crown means the upper part of tree, measured from the lowest branch, including all the branches and foliage.

Dead or *beyond recovery* means that more than 50 percent of the tree is dead, the tree is a hazardous tree as defined herein, or the tree is in a state of irrecoverable decline.

Deteriorated tree or *deterioration* means a tree, which is degenerated or damaged by a biological pathogen, or pest to the point of death of the tree is imminent.

Development means any land disturbing activities including but not limited to: building construction, paving, landscaping, and creation of drainage or water catchment areas, grading, earth filling, utility installation or any other activity which may adversely affect trees either above or below ground.

Diameter at breast height (DBH) means the diameter of a tree as measured four feet, six inches above the soil line, and when using the Guide for Plant Appraisal (9th Ed.) For multi-trunked trees, the DBH shall mean the cumulative diameter of the two largest trunks. The Guide for Plant Appraisal (9th Ed.) or as amended will be the resource standard for measuring trees. For the purpose of this code, DBH for replacement trees may be calculated as one inch less than the caliper measurement of a replacement tree.

Dripline means a vertical line that runs from the outermost circumference of the tree branches and extends to the ground. For trees with canopies set off center, the dripline will be projected based on the average diameter of the existing dripline using the tree trunk as its point of origin.

Drought tolerant means various plant species that survive on natural rainfall without the need for supplemental irrigation after establishment.

Exempt tree means a tree with a DBH less than eight inches and palm trees with less than four and one-half feet of clear trunk. Exempt trees do not require a permit for removal. Exempt trees may not be used to calculate required canopy and may not be used as replacement trees.

Hazardous tree means a tree or part of a tree with a structural defect, combination of defects or disease resulting in a structural defect that, under the normal range of environmental conditions at the site, will result in the loss of a major structural component of the tree in a manner that may damage a residential structure, accessory structure, place of employment, public assembly, permitted parking, public road, or utility; or may delay emergency access in the case of medical hardship. A hazardous tree cannot be controlled or remedied through reasonable preservation and/or preventative procedures and pesticides such that the public health or safety requires its removal.

Heritage tree means any protected tree(s) which is 36 inches in DBH or greater. Any tree in the town selected and duly designated a Florida State Champion, United States Champion or a World Champion by the American Forestry Association shall likewise be deemed a heritage tree.

Indigenous means species of plant or vegetation which is native to the State of Florida.

Invasive species means any non-indigenous species that crowds out or takes over native species habitats.

Landscape Architect means a person who holds a valid license to practice landscape architecture in the State of Florida.

Landscaping means any of the following or combination thereof: Living material such as but not limited to, grass, ground covers, shrubs, vines, hedges, and trees. Landscaping may include, for accent purposes, nonliving material such as, but not limited to, rocks, mulch, pebbles, decorative walls, or fences, but excluding paving.

Noxious means any non-indigenous species that crowds out or takes over native species habitats.

Palm tree means a monocotyledonous plant of the Palmacea family. With some exceptions, it has an unbranched trunk; its leaves group at the end of the trunk and form a type of tuft. Care, maintenance and pruning of palm trees will be governed by and all related ANSI publications as they relate to trees and landscape, adopted by the International Society of Agriculture (ISA), American Consulting Arborists (ASCA) and Tree Care Industry Association (TCIA) formerly the National Arborists Association (NAA). Palm trees shall be measured according to Florida grades and standards.

Park tree means trees in public parks and all areas owned by the Town.

Person means an individual, partnership, corporation, association, or other legal entity, and shall include the plural as well as the singular.

Private tree means trees in areas owned by private, residential, or commercial property owners.

Protected tree means any tree, except exempt trees, of a species that normally grows to a mature height of 25 feet or greater and has a tree trunk DBH of eight inches or greater and is not an exempt tree. Includes palm trees with more than four and one-half feet of clear trunk, any replacement tree, any non-exempt tree that is represented in a planning document for the purposes of securing an approved building or demolition permit, and all trees on Town property.

Pruning means removing or reducing tree limbs to benefit the overall health and safety of a tree. Care, maintenance and pruning shall be done according to current standards established by the American National Standards Institute (ANSI) A-300, Part 1, and all related ANSI publications as they relate to trees and landscape, adopted by the International Society of Agriculture (ISA), American Consulting Arborists (ASCA) and Tree Care Industry Association (TCIA) formerly the National Arborists Association (NAA).

Removal of a tree means either actually removing a tree from the ground which it grew, transplanting a tree, or effectively removing a tree through damage to the trunk, topping, damaging, or removing major limbs, roots, or enough canopy volume so that the tree dies, declines beyond recovery, or becomes a hazard to public safety and must be removed. The term "removal" includes removal, removing, or actual displacement or effective displacement through damaging.

Replacement tree means any tree planted as a condition of approval of a tree removal permit or as required to meet the conditions of an approved plan for development. Any tree planted as a requirement for tree mitigation due to an illegal removal is a Replacement tree.

Right-of-way means land which is owned by a governmental entity or has an easement devoted to for use as a transportation facility or street. The storm water areas associated with the transportation facility shall be included in this definition.

Site means that parcel of land for which any permit from the town is sought.

Size means the tree's DBH for trees in the urban forest or the tree's caliper for nursery stock.

Specimen tree means any tree with a DBH of 18 inches or larger and is not an exempt tree.

Stop work order means notice stating the reason(s) for stopping work, in writing, given to the owner of the property, or to his/her agent, or to the person doing the work, or a notice posted at the property upon which the tree work is being performed requiring that all work cease.

Street tree means trees on rights-of-way on either side of any lanes, streets, avenues, or ways within the town.

Tree means a self-supporting woody or fibrous perennial woody or fibrous perennial plant usually having one dominant trunk which normally grows, or is capable of growing, in the central and north-central area of Florida to a mature height of a minimum of 15 feet and to a minimum DBH of not less than four inches.

Top or topping means the severe cutting back of limbs or trunks within the crown of a tree (25 percent or more) so as to remove the normal canopy and alter the natural growth habit of the tree, inappropriate pruning technique to reduce tree size, or cutting back a tree to a predetermined crown limit, often at internodes.

Tree protection zone (TPZ) means the defined area within which certain activities are prohibited or restricted to prevent or minimize potential injury to designated trees, especially during construction or development. This shall mean an area surrounding a tree encompassed by a tree's drip line. The TPZ shall be a minimum of a three foot radius from the outside edge of the trunk of all palms. The TPZ for protected trees shall be one foot away from the outer edge of the trunk for each inch of DBH. For example, a 24-inch DBH tree would have a TPZ twenty-four feet from the edge of the trunk, or a twenty-six foot radius as measured from the estimated center of the tree trunk.

Trenching means linear or curved open excavation often used to install utilities or structural footings.

Urban forest means the ecosystem containing all woody and associated vegetation throughout the Town.

Yard means the open space on the same lot with a principal building which is unoccupied by buildings or paving.

Sec. 5.01.04. Applicability.

The terms and provisions of this division shall apply to all protected trees, located on real property within the town.

Sec. 5.01.05. Exceptions.

(a) The following are exempt from the provisions of this division:

(1) Trees located in state-licensed, governmental, and commercial plant or tree nurseries or botanical gardens in which the trees are planted for the sale or intended sale to the general public in the ordinary course of business.

(2) Trees in active commercial operation for bona fide agricultural purposes.

(3) Trees that interfere with utility services, create unsafe vision clearance, or constitute a safety hazard as determined by the town manager or his designee.

(4) Trees that occur in the location of planned or future public utility services or public roads.

(5) Exempt trees as defined within this code.

(6) Trees located within buildable area or yard area as defined by the applicable zoning standards for the subject property.

(7) Trees that are exempted from any Town requirement for tree permitting or mitigation for developed and occupied single-family properties consistent with the requirements of Section 1643.045, Florida Statutes. For action taken under this subsection, and not consistent with the requirements of Section 163.045, Florida Statutes, the town may require some or all of the following documentation; the arborist's or the landscape architect's identity and proof of certification; the arborist's or the landscape architect's written report; pictures of the tree prior to any action to prune, trim or remove; and a written description of the particular danger to persons or property presented by the tree. Consistent with the requirements of Section 163.045, Florida Statutes, the town may not require documentation prior to or as requirement to allow the tree removal or trimming.

(8) For trees that are not statutorily exempt from local tree permitting or mitigation as provided in Section 163.045, Florida Statutes, a tree is exempt if the property owner provides documentation to the Town from an arborist certified by the ISA or a Florida licensed landscape architect that the tree poses an unacceptable risk to persons or property. A tree poses an unacceptable risk if removal is the only means of practically mitigating its risk below moderate, as determined by the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017).

(b) The following exempt trees are considered undesirable, invasive and shall be exempt from the provisions of this division. No tree removal permit is required to remove species documented as noxious or invasive by the Florida Invasive Species Council (FISC), Florida Department of Agriculture and Consumer Services, or U.S. Department of Agriculture (USDA).

Sec. 5.01.06. Special exceptions due to emergencies.

During a period of an emergency such as a hurricane, tropical storm, tornado, or flood, as declared by the State of Florida for Orange County or the town manager or his designee, the removal of all trees destroyed or harmed during such an emergency by natural forces which are beyond saving or which are a hazard to public safety shall be exempt from the provisions of this division for a period of 30 days following such occurrence or during the effective period of the emergency declaration, whichever is longer.

Sec. 5.01.07. Trees requiring tree removal permits.

No person, directly or indirectly, shall cut down, destroy, top, abusively prune, remove, move, or effectively destroy through damaging, any protected tree, specimen tree, replacement tree, or heritage tree within the town without first applying for and receiving a tree removal permit approving such act or acts. This requirement does not apply to exempt trees.

Sec. 5.01.08. Tree permit application.

Permits required by this division for the removal of protected, specimen, replacement, or heritage trees shall be obtained by filing an application for the permit with the town manager or his designee. The application shall include a written statement specifying the location of the property and indicate the reasons for the removal, relocation, or replacement of trees thereon. The application shall be accompanied by two copies of a legible site plan drawn to a minimum scale of one-inch equals 20-feet unless, in the discretion of the town manager or his designee, it has been determined that a lesser detailed scale site plan of the area, either in whole or in part, will be sufficient for the purposes of this division, in which case an appropriate substitution shall be acceptable.

Sec. 5.01.09. Site plan information.

Site plans submitted in connection with an application for permits required by this division shall include the following information, summarized in legend form on the site plan:

(1) Location of all existing or proposed structures, 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 and proposed utility services.

(4) The common and botanical names, sizes, and locations of all trees, and clumps of trees on the site.

(5) The common and botanical names of areas of native vegetative cover which are respectively to be retained, removed, relocated, or replaced.

(6) The contractor or property owner shall confirm compliance with the tree protection and mitigation requirements of this division.

Sec. 5.01.10. Criteria for issuance of tree removal permits.

Each application for a tree removal permit shall be reviewed and a decision rendered on approval or denial (in whole or in part) on the basis of the following criteria:

(1) The health of the tree, i.e., whether the tree is deemed dead or beyond recovery, deteriorated or hazardous.

(2) The topography of the land and the effect of the tree removal upon erosion, soil retention and the diversion or increased flow of surface waters.

(3) The number, species, size, location and canopy of existing trees in the area.

(4) Whether structural improvements have been designed and located within the allowed building area to minimize the removal of protected trees.

(5) Whether the denial of the permit would create an unreasonable hardship on the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly zoned and situated properties.

Sec. 5.01.11. Application processing and approval process.

(a) Upon receipt of a completed application, the town manager or his designee shall examine, review, and respond. A field inspection of the site will be performed if deemed necessary. The application shall also be referred to other town departments, town boards, or other governmental agencies as may be necessary or required in order to determine whether any adverse effects will be incurred as to the general welfare of the public, adjacent properties or public services and facilities. Following any necessary on-site inspections by the town manager or his designee and comments received from appropriate departments, boards, or other governmental agencies, the permit application will be approved, disapproved, approved with conditions, or deemed not required in accordance with the provisions of this division.

(b) The town manager or his designee may, in his sole discretion, require the applicant to provide supportive data from a licensed certified arborist and/or other licensed professional such as a licensed landscape architect to substantiate the information provided on the application or to provide additional information deemed necessary by the town.

(c) In the event that a tree planting is approved on public property or town right-of-way, maintenance fees as established by the town may be assessed as part of the permit process.

Sec. 5.01.12. Tree relocation, replacement, or mitigation fee requirements.

(a) The applicant is encouraged and allowed, where practical, to relocate a tree to an appropriate new location on the site. The relocation of a tree shall be performed in accordance with accepted forestry practices after evaluating the species, size, quality, and number of trees.

(b) Conditions for approval of a tree removal permit shall include tree replacement and/or mitigation fees.

(1) *Tree replacement:* Protected trees of any DBH approved by the town to be removed shall be replaced on a DBH inch for inch basis with replacement trees equivalent to the DBH inch for inch replacement. The replacement trees shall meet the replacement tree standard in (c) below. In addition, there may

be more than one replacement tree provided, or larger replacement trees provided, to meet the inch for inch DBH replacement requirement..

(2) *Tree mitigation fees:* DBH inches not planted as replacement trees shall require the applicant to pay mitigation fees to the tree replacement Trust Fund at a rate per DBH inch per the financial mitigation costs established by resolution by the Windermere Town Council. Replacement of live oak trees shall be based upon an inch per inch ratio. Replacement of heritage trees shall be based upon a 1:3 ratio. For every one inch of DBH removed of a heritage tree, three inches of DBH must be replaced.

(c) A minimum of 75% of replacement trees must be indigenous to the State of Florida, provide the similar growth and shade characteristics of the tree removed, and selected from the current UF|IFAS Plant Guide as set forth in Section 5.01.18, and shall be a minimum of eight feet in overall height with a three-inch caliper (two-inch DBH) when planted. The remaining 25% must be Florida- Friendly Landscaping ™ as provided by the current UF|IFAS Plant Guide.

Sec. 5.01.13. Tree replacement trust fund.

(a) The town council hereby creates a tree replacement trust fund. All funds collected as tree mitigation fees shall be administered by the town manager or his designee with the advice of the Windermere Tree Board.

(b) Disbursements from the tree replacement trust fund shall be made only for the following purposes:

(1) Purchasing trees for planting and any associated costs in accordance with the town's tree planting program.

(2) Purchases necessary for improvements (specifically urban forestry vehicles and equipment) including contract services for the town's urban forestry program.

(3) Protection of trees and enforcement of this division.

(4) Tree conservation and educational programs.

(5) Matching funds for urban forestry grant projects for the Town of Windermere.

Sec. 5.01.14. Penalty.

(a) Any agent or representative, including without limitation a contractor or subcontractor, who applies for a tree removal permit on behalf of a property owner or, who on behalf of a property owner removes a tree or otherwise violates this division without appropriate permits or town approval, is jointly and severally liable with the property owner for resulting costs, fees, or fines. The town may pursue, in its sole discretion, one or more liable parties to recover said costs, fees or fines.

(b) Any person or entity who is liable for unpaid costs, fees or fines under this division is subject to the placement of a "stop work order" on any project involving said person or entity until such time as the costs, fees or fines are paid and such is certified as having occurred by the town. No person or entity that is liable for unpaid costs, fees, or fines under this division shall be entitled to obtain or perform work under any other permits until such time as the costs, fees, or fines are paid and such is certified as having occurred by the town. No person or entity that is liable for unpaid costs, fees, or fines under this division shall be entitled to obtain a certificate of occupancy until such time as the costs, fees, or fines are paid and such is certified as having occurred by the town.

(c) If it is determined that the property owner or agent failed to receive the proper permits prior to removal of trees, the registered property owner will be fined twice the amount due for mitigation purposes. If payment is not received within 30 days of the determination of the penalty, the town may seek a lien on the property and assess legal and filing fees in addition to the penalty amount.

Sec. 5.01.15. Appeals.

(a) Upon denial of permit, or conditions placed thereon for tree removal permit, the grounds for such action shall be given to the applicant in writing. Applicants may appeal the denial decision or specific conditions placed on the approval.

(b) All appeals of tree mitigation fees, replacement requirements, and penalties shall be submitted in writing to the town manager within ten days after the permit is issued or after a penalty is imposed.

(c) Following the receipt of a written request to appeal a denial of a tree removal permit or a request to appeal conditions placed on the approval of a tree removal permit the town manager shall consider the appeal within 30 days or as soon as possible thereafter and make a final decision. The final decision of the town manager shall be sent to the applicant by certified and regular mail within ten days.

(d) The applicant may appeal the decision of the town manager to the town council if a further appeal is filed within 15 days of the date of the decision by the town manager. The town council may reverse, modify, or uphold the decision of the town manager at its next available regular scheduled meeting or at a later meeting if requested by the applicant or the town.

(e) Except in the event of an emergency as declared by the town manager, removal of a protected tree without a permit, except as allowed under this division, shall make void any appeals.

(f) Removal of protected trees requested on the tree removal permit application is regarded as the applicant's acceptance of the conditions for removal as stated on the application and voids any appeals.

Sec. 5.01.16. Dead or diseased trees on private property.

The town shall have the right to cause the removal of any dead or diseased trees on private property within the town, when such trees are deemed hazardous by a Certified Arborist or Florida licensed landscape architect, or harbor insects or disease which constitute a potential threat to other trees within the town. The town will notify in writing the owners of such trees. Said owners, at their own expense, shall comply with removal within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the town shall have the authority to remove such trees and charge the cost of removal and disposal to the owners or otherwise recoup costs in accordance with the provisions of the Town's Code of Ordinances or Land Development Code.

Sec. 5.01.17. Development site tree protection standards.

(a) During construction and development, all reasonable steps necessary to prevent destruction or damage to trees and native vegetation shall be consistent with the Tree Protection Zone (TPZ) as defined in Section 5.01.04 of this division. All tree and landscape work shall be governed by the American National Standards Institute (ANSI) A-300 Series and the best management practices. Unless otherwise authorized by a tree removal permit, trees and native vegetation destroyed or receiving major damage must be replaced by trees and vegetation of equal environmental value, as specified by the town manager or his designee (permitting authority) before occupancy or use. However, an alternative tree protection plan prepared by an ISA Certified Arborist or Florida Licensed Landscape Architect may be submitted to the town for review and consideration for approval if it provides the proper protection for the construction activity not to negatively impact the tree’s health.

(b) Approved tree removal permits are to be posted on site, legible, and visible from the street prior to commencement and throughout completion of the work.

(c) During construction, unless otherwise authorized by a tree removal permit or approval by the town manager or his designee, (i) no parking or use of vehicles, equipment or machinery, or (ii) no storing or dumping any material, trash, construction debris, or liquids, or (iii) no construction, excavation, trenching. excess soil, or

additional fill, , shall be placed within the dripline and tree protection zone of any tree that is required to be preserved in its original location.

(d) No attachments or wires other than those of a protective and non-damaging nature shall be attached to any tree during construction or development.

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

(f) Prior to construction, the permit applicant is required to have the following protective barriers and measures put in place:

(1) All protective barriers shall be installed and maintained for the period of time beginning prior to the commencement of any land clearing or building operations and ending with the completion of the permitted clearing or building construction work on the site, whichever is later.

(2) The applicants for a tree removal permit shall, at the time of application, designate an on-site representative for the installation and maintenance of all tree and shrub protective barriers.

(3) The tree protection zone shall be protected during all land development and construction activities by the placement of protective barricades at the outer limits of the tree protection zone. The protective barricade for all protected trees must be a minimum of 4-foot-high and made of materials with a functional lifespan greater than the anticipated construction schedule. The protective barricade for all specimen and heritage trees must be made of 6-foot-high metal chain link fencing securely attached to metal posts. Posts to support the protective barricade must be spaced no farther than 10 feet apart, and the barricade fencing must have a continuous screen/fence a minimum of 4 feet higher than ground level at the barricade. If at any point during construction the barricade does not meet these credentials, a "stop work order" may be placed on the project until the barricade is corrected.

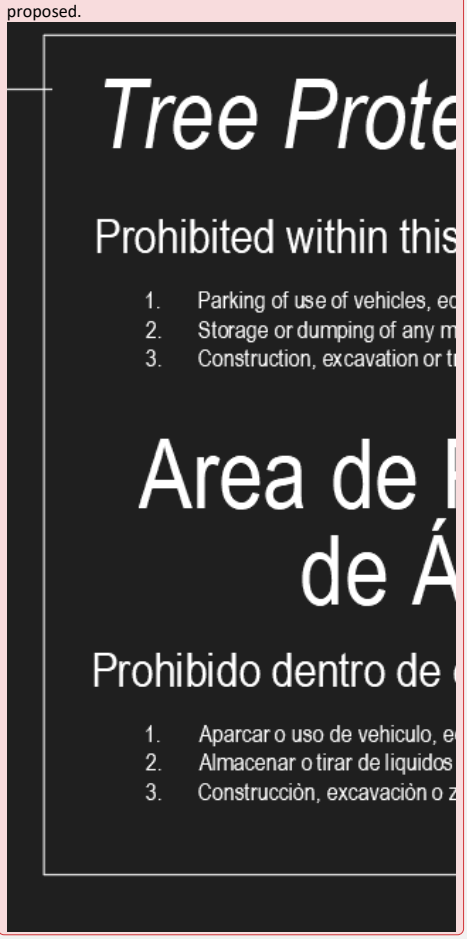
(4) When protection of trees is required, a 3" minimum thickness of organic mulch shall cover the entire tree protection zone except that a clear area of 6 inches must remain around the perimeter of the tree trunk.

(5) A tree protection sign shall have a background color of white or yellow and be a minimum of two feet wide by two feet high consisting of durable rigid, plastic or metal material with non-fading lettering, legibly printed in characters having a contrast ratio of at least 4.5:1 with styles and character heights as stated below on its face. Tree protection signs and barriers are to be maintained through job completion or as otherwise required by the town manager or his designee. A minimum of one sign is required per twenty-five linear feet of barrier. Sign text shall include both English and Spanish and shall read:

2" High Minimum – BOLD	*"Tree Protection Zone"*
1" High Minimum – BOLD	"Prohibited within this area: "
1/2" High Minimum	"1. Parking of use of vehicles, equipment, or machinery."
1/2" High Minimum	"2. Storage or dumping of any materials or liquids. "
1/2" High Minimum	"3. Construction, excavation, or trenching. "
2" High Minimum – BOLD	"Zona de Protection de Árboles "
1" High Minimum – BOLD	"Prohibido dentro de esta area: "
1/2" High Minimum	"1. Aparcar o uso de vehiculo, equipamiento, o maquinaria."
1/2" High Minimum	"2. Almacenar o tirar de liquidos o materiales. "
1/2" High Minimum	"3. Construcciòn, excavaciòn o zanjas."

Commented [CT1]: Verbiage with height stated does not fit on sign described.

Commented [CT2R1]: This is an exampe of what is proposed.



Sec. 5.01.18. Official tree and palm species.

Tree and palm species for the Town of Windermere, Florida are outlined in the Florida-Friendly Landscaping™ Plant Guide as generated and maintained by the University of Florida, Institute of Food and Agricultural Sciences (UF|IFAS). The goal is to plant the right tree in the right place. Species selections should be listed as suitable for the current U.S. Department of Agriculture (USDA) Plant Hardiness Zone for the specific planting location. No species other than those included in the current UF|IFAS Plant Guide may be planted as street trees, park trees, or as trees planted in other public places. Trees not included in the current UF|IFAS Plant Guide will be considered by the town manager or his designee for use in landscaping on private property provided they are indigenous, drought tolerant and are not invasive or noxious:

DIVISION 5.01.00. TREES

Sec. 5.01.01. Purpose.

The purpose of this division is to:

(1) Sustain the forest canopy and the urban forest of the town for future generations.

(2) Establish rules and regulations governing the protection of trees within the town.

(3) Preserve the proliferation of trees as well as their replacement within the town.

(4) Maintain public and private trees in a healthy and non-hazardous condition through good arboricultural practices.

(5) Establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest.

(6) Minimize the removal of protected trees.

(7) Require compensation for the loss of protected, heritage and specimen trees in all stages of maturity on public and private property.

(8) Preserve the community's character and quality of life well into the future.

Sec. 5.01.02. Intent of Tree City USA Program.

The Town of Windermere desires to be an active participant of the Tree City USA program and to achieve the standards set forth by the Arbor Day Foundation. The Town shall adopt and enact administrative policies, regulations, standards and procedures necessary to ensure the town, which has been declared a "Tree City USA" community, will continue to be a recognized participant in this program.

Sec. 5.01.03. Definitions.

ANSI means the American National Standards Institute.

Best management practices (BMP) means the best-available, industry-recognized courses of action, in consideration of the benefits and limitations, based on scientific research and current knowledge.

Buildable area means the portion of the site on which a structure or improvement may be erected.

Caliper means a nursery standard measurement of a tree's trunk diameter as measured at a predetermined point of measurement. Trunk caliper for trees up to four inches shall be measured six inches above the soil line. Trees greater than four inches in caliper shall be measured 12 inches above the soil line. Caliper measurements used when measuring replacement trees are one inch greater than DBH measurements.

Canopy means collective branches and foliage of a tree or group of trees' crowns. A canopy can be closed or partially closed as in a forest or woodland stand or composed of both individual trees and closed canopy groups as in an urban forestry canopy.

Certified arborist means a professional who possesses the technical competence gained through experience, related training, and professional certification to provide for or supervise the management of trees and other

woody plants in residential, commercial, and public landscapes. These arborists must be certified by the International Society of Arboriculture.

Clump(s) of Trees means a group of two or more protected trees of similar species whose trunks are spaced five feet or closer from trunk to trunk. Clumps of trees may be shown on a site plan with common and botanical name, the estimated number of trees, and average DBH of trees in the clump. In lieu of individual protected trees. specimen and heritage trees must be represented individually and may not be included as part of a designated clump of trees.

Crown means the upper part of tree, measured from the lowest branch, including all the branches and foliage.

Dead or *beyond recovery* means that more than 50 percent of the tree is dead, the tree is a hazardous tree as defined herein, or the tree is in a state of irrecoverable decline.

Deteriorated tree or *deterioration* means a tree, which is degenerated or damaged by a biological pathogen, or pest to the point of death of the tree is imminent.

Development means any land disturbing activities including but not limited to: building construction, paving, landscaping, and creation of drainage or water catchment areas, grading, earth filling, utility installation or any other activity which may adversely affect trees either above or below ground.

Diameter at breast height (DBH) means the diameter of a tree as measured four feet, six inches above the soil line, and when using the Guide for Plant Appraisal (9th Ed.) For multi-trunked trees, the DBH shall mean the cumulative diameter of the two largest trunks. The Guide for Plant Appraisal (9th Ed.) or as amended will be the resource standard for measuring trees. For the purpose of this code, DBH for replacement trees may be calculated as one inch less than the caliper measurement of a replacement tree.

Dripline means a vertical line that runs from the outermost circumference of the tree branches and extends to the ground. For trees with canopies set off center, the dripline will be projected based on the average diameter of the existing dripline using the tree trunk as its point of origin.

Drought tolerant means various plant species that survive on natural rainfall without the need for supplemental irrigation after establishment.

Exempt tree means a tree with a DBH less than eight inches and palm trees with less than four and one-half feet of clear trunk. Exempt trees do not require a permit for removal. Exempt trees may not be used to calculate required canopy and may not be used as replacement trees.

Hazardous tree means a tree or part of a tree with a structural defect, combination of defects or disease resulting in a structural defect that, under the normal range of environmental conditions at the site, will result in the loss of a major structural component of the tree in a manner that may damage a residential structure, accessory structure, place of employment, public assembly, permitted parking, public road, or utility; or may delay emergency access in the case of medical hardship. A hazardous tree cannot be controlled or remedied through reasonable preservation and/or preventative procedures and pesticides such that the public health or safety requires its removal.

Heritage tree means any protected tree(s) which is 36 inches in DBH or greater. Any tree in the town selected and duly designated a Florida State Champion, United States Champion or a World Champion by the American Forestry Association shall likewise be deemed a heritage tree.

Indigenous means species of plant or vegetation which is native to the State of Florida.

Invasive species means any non-indigenous species that crowds out or takes over native species habitats.

Landscape Architect means a person who holds a valid license to practice landscape architecture in the State of Florida.

Landscaping means any of the following or combination thereof: Living material such as but not limited to, grass, ground covers, shrubs, vines, hedges, and trees. Landscaping may include, for accent purposes, nonliving material such as, but not limited to, rocks, mulch, pebbles, decorative walls, or fences, but excluding paving.

Noxious means any non-indigenous species that crowds out or takes over native species habitats.

Palm tree means a monocotyledonous plant of the Palmacea family. With some exceptions, it has an unbranched trunk; its leaves group at the end of the trunk and form a type of tuft. Care, maintenance and pruning of palm trees will be governed by and all related ANSI publications as they relate to trees and landscape, adopted by the International Society of Agriculture (ISA), American Consulting Arborists (ASCA) and Tree Care Industry Association (TCIA) formerly the National Arborists Association (NAA). Palm trees shall be measured according to Florida grades and standards.

Park tree means trees in public parks and all areas owned by the Town.

Person means an individual, partnership, corporation, association, or other legal entity, and shall include the plural as well as the singular.

Private tree means trees in areas owned by private, residential, or commercial property owners.

Protected tree means any tree, except exempt trees, of a species that normally grows to a mature height of 25 feet or greater and has a tree trunk DBH of eight inches or greater and is not an exempt tree. Includes palm trees with more than four and one-half feet of clear trunk, any replacement tree, any non-exempt tree that is represented in a planning document for the purposes of securing an approved building or demolition permit, and all trees on Town property.

Pruning means removing or reducing tree limbs to benefit the overall health and safety of a tree. Care, maintenance and pruning shall be done according to current standards established by the American National Standards Institute (ANSI) A-300, Part 1, and all related ANSI publications as they relate to trees and landscape, adopted by the International Society of Agriculture (ISA), American Consulting Arborists (ASCA) and Tree Care Industry Association (TCIA) formerly the National Arborists Association (NAA).

Removal of a tree means either actually removing a tree from the ground which it grew, transplanting a tree, or effectively removing a tree through damage to the trunk, topping, damaging, or removing major limbs, roots, or enough canopy volume so that the tree dies, declines beyond recovery, or becomes a hazard to public safety and must be removed. The term "removal" includes removal, removing, or actual displacement or effective displacement through damaging.

Replacement tree means any tree planted as a condition of approval of a tree removal permit or as required to meet the conditions of an approved plan for development. Any tree planted as a requirement for tree mitigation due to an illegal removal is a Replacement tree.

Right-of-way means land which is owned by a governmental entity or has an easement devoted to for use as a transportation facility or street. The storm water areas associated with the transportation facility shall be included in this definition.

Site means that parcel of land for which any permit from the town is sought.

Size means the tree's DBH for trees in the urban forest or the tree’s caliper for nursery stock.

Specimen tree means any tree with a DBH of 18 inches or larger and is not an exempt tree.

Stop work order means notice stating the reason(s) for stopping work, in writing, given to the owner of the property, or to his/her agent, or to the person doing the work, or a notice posted at the property upon which the tree work is being performed requiring that all work cease.

Street tree means trees on rights-of-way on either side of any lanes, streets, avenues, or ways within the town.

Tree means a self-supporting woody or fibrous perennial woody or fibrous perennial plant usually having one dominant trunk which normally grows, or is capable of growing, in the central and north-central area of Florida to a mature height of a minimum of 15 feet and to a minimum DBH of not less than four inches.

Top or topping means the severe cutting back of limbs or trunks within the crown of a tree (25 percent or more) so as to remove the normal canopy and alter the natural growth habit of the tree, inappropriate pruning technique to reduce tree size, or cutting back a tree to a predetermined crown limit, often at internodes.

Tree protection zone (TPZ) means the defined area within which certain activities are prohibited or restricted to prevent or minimize potential injury to designated trees, especially during construction or development. This shall mean an area surrounding a tree encompassed by a tree's drip line. The TPZ shall be a minimum of a three foot radius from the outside edge of the trunk of all palms. The TPZ for protected trees shall be one foot away from the outer edge of the trunk for each inch of DBH. For example, a 24-inch DBH tree would have a TPZ twenty-four feet from the edge of the trunk, or a twenty-six foot radius as measured from the estimated center of the tree trunk.

Trenching means linear or curved open excavation often used to install utilities or structural footings.

Urban forest means the ecosystem containing all woody and associated vegetation throughout the Town.

Yard means the open space on the same lot with a principal building which is unoccupied by buildings or paving.

Sec. 5.01.04. Applicability.

The terms and provisions of this division shall apply to all protected trees, located on real property within the town.

Sec. 5.01.05. Exceptions.

(a) The following are exempt from the provisions of this division:

(1) Trees located in state-licensed, governmental, and commercial plant or tree nurseries or botanical gardens in which the trees are planted for the sale or intended sale to the general public in the ordinary course of business.

(2) Trees in active commercial operation for bona fide agricultural purposes.

(3) Trees that interfere with utility services, create unsafe vision clearance, or constitute a safety hazard as determined by the town manager or his designee.

(4) Trees that occur in the location of planned or future public utility services or public roads.

(5) Exempt trees as defined within this code.

(6) Trees located within buildable area or yard area as defined by the applicable zoning standards for the subject property.

(7) Trees that are exempted from any Town requirement for tree permitting or mitigation for developed and occupied single-family properties consistent with the requirements of Section 1643.045, Florida Statutes. For action taken under this subsection, and not consistent with the requirements of Section 163.045, Florida Statutes, the town may require some or all of the following documentation; the arborist's or the landscape architect's identity and proof of certification; the arborist's or the landscape architect's written report; pictures of the tree prior to any action to prune, trim or remove; and a written description of the particular danger to persons or property presented by the tree. Consistent with the requirements of Section 163.045, Florida Statutes, the town may not require documentation prior to or as requirement to allow the tree removal or trimming.

(8) For trees that are not statutorily exempt from local tree permitting or mitigation as provided in Section 163.045, Florida Statutes, a tree is exempt if the property owner provides documentation to the Town from an arborist certified by the ISA or a Florida licensed landscape architect that the tree poses an unacceptable risk to persons or property. A tree poses an unacceptable risk if removal is the only means of practically mitigating its risk below moderate, as determined by the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017).

(b) The following exempt trees are considered undesirable, invasive and shall be exempt from the provisions of this division. No tree removal permit is required to remove species documented as noxious or invasive by the Florida Invasive Species Council (FISC), Florida Department of Agriculture and Consumer Services, or U.S. Department of Agriculture (USDA).

Sec. 5.01.06. Special exceptions due to emergencies.

During a period of an emergency such as a hurricane, tropical storm, tornado, or flood, as declared by the State of Florida for Orange County or the town manager or his designee, the removal of all trees destroyed or harmed during such an emergency by natural forces which are beyond saving or which are a hazard to public safety shall be exempt from the provisions of this division for a period of 30 days following such occurrence or during the effective period of the emergency declaration, whichever is longer.

Sec. 5.01.07. Trees requiring tree removal permits.

No person, directly or indirectly, shall cut down, destroy, top, abusively prune, remove, move, or effectively destroy through damaging, any protected tree, specimen tree, replacement tree, or heritage tree within the town without first applying for and receiving a tree removal permit approving such act or acts. This requirement does not apply to exempt trees.

Sec. 5.01.08. Tree permit application.

Permits required by this division for the removal of protected, specimen, replacement, or heritage trees shall be obtained by filing an application for the permit with the town manager or his designee. The application shall include a written statement specifying the location of the property and indicate the reasons for the removal, relocation, or replacement of trees thereon. The application shall be accompanied by two copies of a legible site plan drawn to a minimum scale of one-inch equals 20-feet unless, in the discretion of the town manager or his designee, it has been determined that a lesser detailed scale site plan of the area, either in whole or in part, will be sufficient for the purposes of this division, in which case an appropriate substitution shall be acceptable.

Sec. 5.01.09. Site plan information.

Site plans submitted in connection with an application for permits required by this division shall include the following information, summarized in legend form on the site plan:

(1) Location of all existing or proposed structures, 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 and proposed utility services.

(4) The common and botanical names, sizes, and locations of all trees, and clumps of trees on the site.

(5) The common and botanical names of areas of native vegetative cover which are respectively to be retained, removed, relocated, or replaced.

(6) The contractor or property owner shall confirm compliance with the tree protection and mitigation requirements of this division.

Sec. 5.01.10. Criteria for issuance of tree removal permits.

Each application for a tree removal permit shall be reviewed and a decision rendered on approval or denial (in whole or in part) on the basis of the following criteria:

(1) The health of the tree, i.e., whether the tree is deemed dead or beyond recovery, deteriorated or hazardous.

(2) The topography of the land and the effect of the tree removal upon erosion, soil retention and the diversion or increased flow of surface waters.

(3) The number, species, size, location and canopy of existing trees in the area.

(4) Whether structural improvements have been designed and located within the allowed building area to minimize the removal of protected trees.

(5) Whether the denial of the permit would create an unreasonable hardship on the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly zoned and situated properties.

Sec. 5.01.11. Application processing and approval process.

(a) Upon receipt of a completed application, the town manager or his designee shall examine, review, and respond. A field inspection of the site will be performed if deemed necessary. The application shall also be referred to other town departments, town boards, or other governmental agencies as may be necessary or required in order to determine whether any adverse effects will be incurred as to the general welfare of the public, adjacent properties or public services and facilities. Following any necessary on-site inspections by the town manager or his designee and comments received from appropriate departments, boards, or other governmental agencies, the permit application will be approved, disapproved, approved with conditions, or deemed not required in accordance with the provisions of this division.

(b) The town manager or his designee may, in his sole discretion, require the applicant to provide supportive data from a licensed certified arborist and/or other licensed professional such as a licensed landscape architect to substantiate the information provided on the application or to provide additional information deemed necessary by the town.

(c) In the event that a tree planting is approved on public property or town right-of-way, maintenance fees as established by the town may be assessed as part of the permit process.

Sec. 5.01.12. Tree relocation, replacement, or mitigation fee requirements.

(a) The applicant is encouraged and allowed, where practical, to relocate a tree to an appropriate new location on the site. The relocation of a tree shall be performed in accordance with accepted forestry practices after evaluating the species, size, quality, and number of trees.

(b) Conditions for approval of a tree removal permit shall include tree replacement and/or mitigation fees.

(1) *Tree replacement:* Protected trees of any DBH approved by the town to be removed shall be replaced on a DBH inch for inch basis with replacement trees equivalent to the DBH inch for inch replacement. The replacement trees shall meet the replacement tree standard in (c) below. In addition, there may

be more than one replacement tree provided, or larger replacement trees provided, to meet the inch for inch DBH replacement requirement..

(2) *Tree mitigation fees:* DBH inches not planted as replacement trees shall require the applicant to pay mitigation fees to the tree replacement Trust Fund at a rate per DBH inch per the financial mitigation costs established by resolution by the Windermere Town Council. Replacement of live oak trees shall be based upon an inch per inch ratio. Replacement of heritage trees shall be based upon a 1:3 ratio. For every one inch of DBH removed of a heritage tree, three inches of DBH must be replaced.

(c) A minimum of 75% of replacement trees must be indigenous to the State of Florida, provide the similar growth and shade characteristics of the tree removed, and selected from the current UF|IFAS Plant Guide as set forth in Section 5.01.18, and shall be a minimum of eight feet in overall height with a three-inch caliper (two-inch DBH) when planted. The remaining 25% must be Florida- Friendly Landscaping ™ as provided by the current UF|IFAS Plant Guide.

Sec. 5.01.13. Tree replacement trust fund.

(a) The town council hereby creates a tree replacement trust fund. All funds collected as tree mitigation fees shall be administered by the town manager or his designee with the advice of the Windermere Tree Board.

(b) Disbursements from the tree replacement trust fund shall be made only for the following purposes:

(1) Purchasing trees for planting and any associated costs in accordance with the town's tree planting program.

(2) Purchases necessary for improvements (specifically urban forestry vehicles and equipment) including contract services for the town's urban forestry program.

(3) Protection of trees and enforcement of this division.

(4) Tree conservation and educational programs.

(5) Matching funds for urban forestry grant projects for the Town of Windermere.

Sec. 5.01.14. Penalty.

(a) Any agent or representative, including without limitation a contractor or subcontractor, who applies for a tree removal permit on behalf of a property owner or, who on behalf of a property owner removes a tree or otherwise violates this division without appropriate permits or town approval, is jointly and severally liable with the property owner for resulting costs, fees, or fines. The town may pursue, in its sole discretion, one or more liable parties to recover said costs, fees or fines.

(b) Any person or entity who is liable for unpaid costs, fees or fines under this division is subject to the placement of a "stop work order" on any project involving said person or entity until such time as the costs, fees or fines are paid and such is certified as having occurred by the town. No person or entity that is liable for unpaid costs, fees, or fines under this division shall be entitled to obtain or perform work under any other permits until such time as the costs, fees, or fines are paid and such is certified as having occurred by the town. No person or entity that is liable for unpaid costs, fees, or fines under this division shall be entitled to obtain a certificate of occupancy until such time as the costs, fees, or fines are paid and such is certified as having occurred by the town.

(c) If it is determined that the property owner or agent failed to receive the proper permits prior to removal of trees, the registered property owner will be fined twice the amount due for mitigation purposes. If payment is not received within 30 days of the determination of the penalty, the town may seek a lien on the property and assess legal and filing fees in addition to the penalty amount.

Sec. 5.01.15. Appeals.

(a) Upon denial of permit, or conditions placed thereon for tree removal permit, the grounds for such action shall be given to the applicant in writing. Applicants may appeal the denial decision or specific conditions placed on the approval.

(b) All appeals of tree mitigation fees, replacement requirements, and penalties shall be submitted in writing to the town manager within ten days after the permit is issued or after a penalty is imposed.

(c) Following the receipt of a written request to appeal a denial of a tree removal permit or a request to appeal conditions placed on the approval of a tree removal permit the town manager shall consider the appeal within 30 days or as soon as possible thereafter and make a final decision. The final decision of the town manager shall be sent to the applicant by certified and regular mail within ten days.

(d) The applicant may appeal the decision of the town manager to the town council if a further appeal is filed within 15 days of the date of the decision by the town manager. The town council may reverse, modify, or uphold the decision of the town manager at its next available regular scheduled meeting or at a later meeting if requested by the applicant or the town.

(e) Except in the event of an emergency as declared by the town manager, removal of a protected tree without a permit, except as allowed under this division, shall make void any appeals.

(f) Removal of protected trees requested on the tree removal permit application is regarded as the applicant's acceptance of the conditions for removal as stated on the application and voids any appeals.

Sec. 5.01.16. Dead or diseased trees on private property.

The town shall have the right to cause the removal of any dead or diseased trees on private property within the town, when such trees are deemed hazardous by a Certified Arborist or Florida licensed landscape architect, or harbor insects or disease which constitute a potential threat to other trees within the town. The town will notify in writing the owners of such trees. Said owners, at their own expense, shall comply with removal within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the town shall have the authority to remove such trees and charge the cost of removal and disposal to the owners or otherwise recoup costs in accordance with the provisions of the Town's Code of Ordinances or Land Development Code.

Sec. 5.01.17. Development site tree protection standards.

(a) During construction and development, all reasonable steps necessary to prevent destruction or damage to trees and native vegetation shall be consistent with the Tree Protection Zone (TPZ) as defined in Section 5.01.04 of this division. All tree and landscape work shall be governed by the American National Standards Institute (ANSI) A-300 Series and the best management practices. Unless otherwise authorized by a tree removal permit, trees and native vegetation destroyed or receiving major damage must be replaced by trees and vegetation of equal environmental value, as specified by the town manager or his designee (permitting authority) before occupancy or use. However, an alternative tree protection plan prepared by an ISA Certified Arborist or Florida Licensed Landscape Architect may be submitted to the town for review and consideration for approval if it provides the proper protection for the construction activity not to negatively impact the tree’s health.

(b) Approved tree removal permits are to be posted on site, legible, and visible from the street prior to commencement and throughout completion of the work.

(c) During construction, unless otherwise authorized by a tree removal permit or approval by the town manager or his designee, (i) no parking or use of vehicles, equipment or machinery, or (ii) no storing or dumping any material, trash, construction debris, or liquids, or (iii) no construction, excavation, trenching. excess soil, or

additional fill, , shall be placed within the dripline and tree protection zone of any tree that is required to be preserved in its original location.

(d) No attachments or wires other than those of a protective and non-damaging nature shall be attached to any tree during construction or development.

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

(f) Prior to construction, the permit applicant is required to have the following protective barriers and measures put in place:

(1) All protective barriers shall be installed and maintained for the period of time beginning prior to the commencement of any land clearing or building operations and ending with the completion of the permitted clearing or building construction work on the site, whichever is later.

(2) The applicants for a tree removal permit shall, at the time of application, designate an on-site representative for the installation and maintenance of all tree and shrub protective barriers.

(3) The tree protection zone shall be protected during all land development and construction activities by the placement of protective barricades at the outer limits of the tree protection zone. The protective barricade for all protected trees must be a minimum of 4-foot-high and made of materials with a functional lifespan greater than the anticipated construction schedule. The protective barricade for all specimen and heritage trees must be made of 6-foot-high metal chain link fencing securely attached to metal posts. Posts to support the protective barricade must be spaced no farther than 10 feet apart, and the barricade fencing must have a continuous screen/fence a minimum of 4 feet higher than ground level at the barricade. If at any point during construction the barricade does not meet these credentials, a "stop work order" may be placed on the project until the barricade is corrected.

(4) When protection of trees is required, a 3" minimum thickness of organic mulch shall cover the entire tree protection zone except that a clear area of 6 inches must remain around the perimeter of the tree trunk.

(5) A tree protection sign shall have a background color of white or yellow and be a minimum of two feet wide by two feet high consisting of durable rigid, plastic or metal material with non-fading lettering, legibly printed in characters having a contrast ratio of at least 4.5:1 with styles and character heights as stated below on its face. Tree protection signs and barriers are to be maintained through job completion or as otherwise required by the town manager or his designee. A minimum of one sign is required per twenty-five linear feet of barrier. Sign text shall include both English and Spanish and shall read:

2" High Minimum – BOLD	*"Tree Protection Zone"*
1" High Minimum – BOLD	"Prohibited within this area: "
1/2" High Minimum	"1. Parking of use of vehicles, equipment, or machinery."
1/2" High Minimum	"2. Storage or dumping of any materials or liquids. "
1/2" High Minimum	"3. Construction, excavation, or trenching. "
2" High Minimum – BOLD	"Zona de Protection de Árboles "
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1/2" High Minimum	"1. Aparcar o uso de vehiculo, equipamiento, o maquinaria."
1/2" High Minimum	"2. Almacenar o tirar de liquidos o materiales. "
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(3) Preserve the proliferation of trees as well as their replacement within the town.

(4) Maintain public and private trees in a healthy and non-hazardous condition through good arboricultural practices.

(5) Establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest.

(6) Minimize the removal of protected trees.

(7) Require compensation for the loss of protected, heritage and specimen~~, and historic~~ trees in all stages of maturity on public and private property.

(8) Preserve the community's character and quality of life well into the future.

Sec. 5.01.02. Intent of Tree City USA Program.

The Town of Windermere desires to be an active participant of the Tree City USA program and to achieve the standards set forth by the Arbor Day Foundation. The Town shall adopt and enact administrative policies, regulations, standards and procedures necessary to ensure the town, which has been declared a "Tree City USA" community, will continue to be a recognized participant in this program.

Sec. 5.01.03. Definitions.

ANSI means the American National Standards Institute.

Best management practices (BMP) means the best-available, industry-recognized courses of action, in consideration of the benefits and limitations, based on scientific research and current knowledge.

Buildable area means the portion of the site on which a structure or improvement may be erected.

Caliper means a nursery standard measurement of a tree's trunk diameter as measured at a predetermined point of measurement. Trunk caliper for trees up to four inches shall be measured six inches above the soil line. Trees greater than four inches in caliper shall be measured 12 inches above the soil line. Caliper measurements ~~shall be~~ used when measuring replacement trees are one inch greater than DBH measurements.~~.~~

Canopy means collective branches and foliage of a tree or group of trees' crowns. A canopy can be closed or partially closed as in a forest or woodland stand~~,~~ or composed of both individual trees and closed canopy groups as in an urban forestry canopy.

Certified arborist means a professional who possesses the technical competence gained through experience, related ~~training~~training, and professional certification to provide for or supervise the management of trees and

other woody plants in residential, commercial, and public landscapes. These arborists must be ~~licensed by the State of Florida and~~ certified by the International Society of Arboriculture.

Clump(s) of Trees means a group of two or more protected trees of similar species whose trunks are spaced five feet or closer from trunk to trunk. Clumps of trees may be shown on a site plan with common and botanical name, the estimated number of trees, and average DBH of trees in the clump. In lieu of individual protected trees. s~~S~~pecimen and heritage ~~Historic T~~trees must be represented individually and may not be included as part of a designated clump of trees.

Crown means the upper part of tree, measured from the lowest branch, including all the branches and foliage.

Dead or *beyond recovery* means that more than 50 percent of the tree is dead, the tree is a hazardous tree as defined herein, or the tree is in a state of irrecoverable decline.

Deteriorated tree or *deterioration* means a tree, which is degenerated or damaged by a biological pathogen, or pest to the point of death of the tree is imminent.

Development means any land disturbing activities including but not limited to: building construction, paving, landscaping, and creation of drainage or water catchment areas, grading, earth filling, utility installation or any other activity which may adversely affect trees either above or below ground.

Diameter at breast height (DBH) means the diameter of a tree as measured four feet, six inches above the soil line, and when using the Guide for Plant Appraisal (9th Ed.) For multi-trunked ~~trees~~trees, the DBH shall mean the cumulative diameter of the two largest trunks. The Guide for Plant Appraisal (9th Ed.) or as amended will be the resource standard for measuring trees. For the purpose of this code, DBH for replacement trees may be calculated as one inch less than the caliper measurement of a replacement tree.

Drip-line means a vertical line that runs from the outermost circumference of the tree branches and extends to the ground. For trees with canopies set off center, the drip-line will be projected based on the average diameter of the existing ~~drip-line~~dripline using the tree trunk as its point of origin.

Drought tolerant means various plant species that survive on natural rainfall without the need for supplemental irrigation after establishment.

Exempt tree means a tree with a DBH less than eight inches ~~in diameter~~ and palm trees with less than four and one-half feet of clear trunk. Exempt trees do not require a permit for removal. Exempt trees may not be used to calculate required canopy and may not be used as replacement trees.

Hazardous tree means a tree or part of a tree with a structural defect, combination of defects or disease resulting in a structural defect that, under the normal range of environmental conditions at the site, will result in the loss of a major structural component of the tree in a manner that may damage a residential structure, accessory structure, place of employment, public assembly, permitted parking, public road, or utility; or may delay emergency access in the case of medical hardship. ~~that is irreparably diseased or presents a danger of falling that~~ A hazardous tree cannot be controlled or remedied through reasonable preservation and/or preventative procedures and pesticides such that the public health or safety requires its removal.

~~*Historic*~~ *Heritage tree* means any protected tree(s) which is 36 inches in DBH or greater. ~~and has such unique and intrinsic value to the general public because of its size, age, historic association, or ecological value as to justify this classification.~~ Any tree in the town selected and duly designated a Florida State Champion, United States Champion or a World Champion by the American Forestry Association shall likewise be deemed a heritage~~historic~~ tree.

Indigenous means species of plant or vegetation which is native to the State of Florida.

Invasive species means any non-indigenous species that crowds out or takes over native species habitats.

Landscape Architect means a person who holds a valid license to practice landscape architecture in the State of Florida.

Landscaping means any of the following or combination thereof: Living material such as but not limited to, grass, ground covers, shrubs, vines, hedges, and trees. Landscaping may include, for accent purposes, nonliving material such as, but not limited to, rocks, mulch, pebbles, decorative ~~walls~~walls, or fences, but excluding paving.

Noxious means any non-indigenous species that crowds out or takes over native species habitats.

Palm tree means a monocotyledonous plant of the Palmacea family. With some exceptions, it has an unbranched trunk; its leaves group at the end of the trunk and form a type of tuft. Care, maintenance and pruning of palm trees will be governed by and all related ANSI publications as they relate to trees and landscape, adopted by the International Society of Agriculture (ISA), American Consulting Arborists (ASCA) and Tree Care Industry Association (TCIA) formerly the National Arborists Association (NAA). Palm trees shall be measured according to Florida grades and standards.

Park tree~~s~~ means trees ~~, shrubs, bushes, and all other woody vegetation~~ in public parks and all areas owned by ~~the town~~the Town.

Person means an individual, partnership, corporation, association, or other legal entity, and shall include the plural as well as the singular.

Private tree~~s~~ means trees ~~, shrubs, bushes, and all other woody vegetation~~ in areas owned by private, ~~residential~~residential, or commercial property owners.

Protected tree means any ~~self-supporting woody or fibrous perennial plant/~~tree, except exempt trees, of a species that normally grows to a mature height of 25 feet or greater and has a tree trunk DBH of eight inches or greater and is not an exempt tree. Includes palm trees with more than four and one-half feet of clear trunk, any replacement tree, any non-exempt tree that is represented in a planning document for the purposes of securing an approved building or demolition permit, and all trees on Town property.

Pruning means removing or reducing tree limbs to benefit the overall health and safety of a tree. Care, maintenance and pruning shall be done according to current standards established by the American National Standards Institute (ANSI) A-300, Part 1, and all related ANSI publications as they relate to trees and landscape, adopted by the International Society of Agriculture (ISA), American Consulting Arborists (ASCA) and Tree Care Industry Association (TCIA) formerly the National Arborists Association (NAA).

Removal of a tree means either actually removing a tree from the ground which it grew, transplanting a tree, or effectively removing a tree through damage to the trunk, topping, damaging, or removing major limbs, roots, or enough canopy volume so that the tree dies, declines beyond recovery, or becomes a hazard to public safety and must be removed. The term "removal" includes removal, removing, or actual displacement or effective displacement through damaging.

Replacement tree means any tree planted as a condition of approval of a tree removal permit or as ~~may be~~ required to meet the conditions of an approved plan for development. Any tree planted as a requirement for tree ~~replacement~~ mitigation due to an illegal removal is a Replacement tree.

Right-of-way means land which is owned by a governmental entity or has an easement devoted to for use as a transportation facility or street. The storm water areas associated with the transportation facility shall be included in this definition.

Site means that parcel of land for which any permit from the town is sought.

Size means the tree's DBH for trees in the urban forest or the tree's caliper for nursery stock.

Specimen tree means any tree ~~, except undesirable, noxious or invasive,~~ with a DBH of 18 inches or ~~larger, and~~larger and is not an exempt tree.

Stop work order means notice stating the reason(s) for stopping work, in writing, given to the owner of the property, or to his/her agent, or to the person doing the work, or a notice posted at the property upon which the tree work is being performed requiring that all work cease.

Street trees means trees~~, shrubs, bushes, and all other woody vegetation~~ on rights-of-way on either side of ~~all~~ any lanes, streets, avenues, or ways within the town.

Tree means a self-supporting woody or fibrous perennial woody or fibrous perennial plant usually having one dominant trunk which normally grows, or is capable of growing, in the central and north-central area of Florida to a mature height of a minimum of 15 feet and to a minimum DBH of not less than four inches~~ as measured four feet, six inches above the existing grade~~.

Top or topping means the severe cutting back of limbs or trunks within the crown of a tree (25 percent or more) so as to remove the normal canopy and alter the natural growth habit of the tree, inappropriate pruning technique to reduce tree size, or cutting back a tree to a predetermined crown limit, often at internodes.

Tree protection zone~~/area~~ (TPZ~~A~~) means the defined area within which certain activities are prohibited or restricted to prevent or minimize potential injury to designated trees, especially during construction or development. This shall mean an area surrounding a tree encompassed by a tree's drip line~~ or projected drip line.~~ The ~~minimum~~ TPZ~~A~~ shall be a minimum of a three foot ~~feet or TPA~~ radius ~~per~~ from the outside edge of the trunk of all palms. The TPZ for protected trees shall be one foot away from the outer edge of the trunk for each inch of~~12 inches of~~ DBH. For example, a ~~12~~24-inch DBH tree would have a ~~TPA~~ TPZ ~~of three~~ twenty-four ~~feet~~ feet from the edge of the trunk, or a twenty-six foot radius as measured from the estimated center of the tree trunk~~; a 60-inch DBH will have a TPA of 15 feet radius. Factor DBH in inches/4. The maximum required tree protection area shall be 25 feet radius from the trunk of the tree.~~

Trenching means linear or curved open excavation often used to install utilities or structural footings.

Urban forest means the ecosystem containing all woody and associated vegetation throughout the Town.

Yard means the open space on the same lot with a principal building which is unoccupied by buildings or paving.

Sec. 5.01.04. Applicability.

The terms and provisions of this division shall apply to all protected trees, located on real property within the town.

Sec. 5.01.05. Exceptions.

(a) The following are exempt from the provisions of this division:

(1) Trees located in state-licensed, ~~governmental~~governmental, and commercial plant or tree nurseries or botanical gardens in which the trees are planted for the sale or intended sale to the general public in the ordinary course of business.

(2) Trees in active commercial operation for bona fide agricultural purposes. ~~(3) Trees, which due to natural circumstances and reviewed by a licensed and certified arborist, are no longer viable and are in danger of falling. (4)Trees, which due to natural circumstances and reviewed by a licensed and certified arborist are determined to be too close to existing structures so as to endanger such structures.~~

(~~5~~3) Trees that interfere with utility services, create unsafe vision clearance, or constitute a safety hazard as determined by the town manager or his designee.

(~~6~~4) Trees that occur in the location of planned or future public utility services or public roads.

(~~7~~5) Exempt ~~T~~trees ~~with a DBH of less than eight inches.~~ as defined within this code.

(~~8~~6) Trees located within buildable area or yard area as defined by the applicable zoning standards for the subject property. ~~where a structure or improvement is to be placed~~placed, ~~and it unreasonably restricts the permitted use of the property.~~

(~~9~~7) Trees ~~on residential property if the property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that a tree presents a danger to persons or property. The town will not require: (i) a notice, application, approval, permit, fee or mitigation for the pruning, trimming, or removal of such tree, or (ii) a property owner to replant such tree that was pruned, trimmed, or removed.~~that are exempted from any Town requirement for tree permitting or mitigation for developed and occupied single-family properties consistent with the requirements of Section 1643.045, Florida Statutes. For action taken under this subsection, and not consistent with the requirements of Section 163.045, Florida Statutes, , the town may require some or all of the following documentation; the arborist's or the landscape architect's identity and proof of certification; the arborist's or the landscape architect's written report; pictures of the tree prior to any action to prune, trim or remove; and a written description of the particular danger to persons or property presented by the tree. Consistent with the requirements of Section 163.045, Florida Statutes, the town may not require documentation prior to or as requirement to allow the tree removal or trimming.

(8) For trees that are not statutorily exempt from local tree permitting or mitigation as provided in Section 163.045, Florida Statutes, a tree is exempt if the property owner provides documentation to the Town from an arborist certified by the ISA or a Florida licensed landscape architect that the tree poses an unacceptable risk to persons or property. A tree poses an unacceptable risk if removal is the only means of practically mitigating its risk below moderate, as determined by the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017).

~~(b) Any property zoned or used for agriculture, which is effectively cleared of trees under the above exemptions, shall not be eligible for changes to a more intensive land use for a period of three years after the site is cleared.~~

(~~c~~b) The following exempt trees are considered undesirable, invasive and shall be exempt from the provisions of this division. No tree removal permit is required to remove ~~the following~~ species documented as noxious or invasive by the Florida Invasive Species Council (FISC), Florida Department of Agriculture and Consumer Services, or U.S. Department of Agriculture (USDA). ~~:~~

~~(1) Australian Pine (Casuarina species);~~

~~(2) Brazilian Pepper or Christmasberry Tree (Schinus terebinthifloius);~~

~~(3) Cajeput Punk or Melaleuca Tree (Melaleuca quinquenervia/leucadendra);~~

~~(4) Chinaberry (Melia azedarach);~~

~~(5) Chinese Tallow Tree (Triadica sebiferum);~~

~~(6) Ear Tree (Enterlobium species);~~

~~(7) Eucalyptus (Eucalyptus);~~

~~(8) Mimose (Albizzia julibrissin);~~

~~(9) Paper Mulberry (Broussonetia papyrifora);~~

~~(10) Poisonwood or Florida Poison Tree (Metopium toxiferum);~~

~~(11) Silk Oak (Grevillea robusta);~~

~~(12) Any other tree defined as undesirable, noxious or invasive by the State of Florida.~~

Sec. 5.01.06. Special exceptions due to emergencies.

During a period of an emergency such as a hurricane, tropical storm, tornado, or flood, as declared by the State of Florida for Orange County or the town manager or his designee, the removal of all trees destroyed or harmed during such an emergency by natural forces which are beyond saving or which are a hazard to public safety shall be exempt from the provisions of this division for a period of 30~~14~~ days following such occurrence or during the effective period of the emergency declaration, whichever is longer.

Sec. 5.01.07. Trees requiring tree removal permits.

No person, directly or indirectly, shall cut down, destroy, top, abusively prune, remove, move, or effectively destroy through damaging, any protected tree, specimen tree, replacement tree, or ~~historic~~ heritage tree within the town without first applying for and receiving a tree removal permit approving such act or acts. This requirement does not apply to exempt trees.

Sec. 5.01.08. Tree permit application.

Permits required by this division for the removal of protected, specimen, replacement, or ~~historic~~ heritage trees shall be obtained by filing an application for the permit with the town manager or his designee. The application shall include a written statement specifying the location of the property and indicate the reasons for the removal, relocation, or replacement of trees thereon. The application shall be accompanied by two copies of a legible site plan drawn to a minimum scale of one-inch equals 20-feet unless, in the discretion of the town manager or his designee, it has been determined that a lesser detailed scale site plan of the area, either in whole or in part, will be sufficient for the purposes of this division, in which case an appropriate substitution shall be acceptable.

Sec. 5.01.09. Site plan information.

Site plans submitted in connection with an application for permits required by this division shall include the following information, summarized in legend form on the site plan:

(1) Location of all existing or proposed structures, 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 and proposed utility services.

(4) The common ~~or~~ and botanical names, sizes, and locations of all trees, and clumps of trees ~~-~~on the site. ~~, designating those as well as areas of native vegetative cover which are respectively to be retained, removed, relocated, or replaced.~~

(5) The common and botanical names of areas of native vegetative cover which are respectively to be retained, removed, relocated, or replaced. ~~Except specimen or historic trees, which are all within close proximity may be designated as "clumps" with the predominate type, estimated number and average DBH noted. Specimen trees eighteen inches or larger and historic trees inches or larger must be designated individually by type and DBH.~~

(6) The contractor or property owner shall confirm compliance with the tree protection and mitigation requirements of this division.

Sec. 5.01.10. Criteria for issuance of tree removal permits.

Each application for a tree removal permit shall be reviewed and a decision rendered on approval or denial (in whole or in part) on the basis of the following criteria:

(1) The health of the tree, ~~i.e.~~ i.e., whether the tree is deemed dead or beyond recovery, deteriorated or hazardous.

(2) The topography of the land and the effect of the tree removal upon erosion, soil retention and the diversion or increased flow of surface waters.

(3) The number, species, size, location and canopy of existing trees in the area. ~~and the effect the removal would have upon lakes, shade, sunlight, privacy, scenic beauty, wildlife, noise, air quality, wind, health, safety, prosperity, historic values and general welfare of the area and the town as a whole.~~

(4) Whether structural improvements have been designed and located within the allowed building area to minimize the removal of protected trees.

(5) Whether the denial of the permit would create an unreasonable hardship on the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly zoned and situated properties. ~~A minor reduction of the potential number of residential units or building size due to the tree location does not represent a severe limit of the economic enjoyment of the property.~~

Sec. 5.01.11. Application processing and approval process.

(a) Upon receipt of a completed application, the town manager or his designee shall examine, review, and respond. A field inspection of the site will be performed if deemed necessary. The application shall also be referred to other town departments, town boards, or other governmental agencies as may be necessary or required in order to determine whether any adverse effects will be incurred as to the general welfare of the public, adjacent properties or public services and facilities. Following any necessary on-site inspections by the town manager or his designee and comments received from appropriate departments, boards, or other governmental agencies, the permit application will be approved, disapproved, approved with conditions, or deemed not required in accordance with the provisions of this division.

(b) The town manager or his designee may, in his sole discretion, require the applicant to provide supportive data from a licensed certified arborist and/or other licensed professional such as a licensed ~~certified~~ landscape architect to substantiate the information provided on the application or to provide additional information deemed necessary by the town.

(c) In the event that a tree planting is approved on public property or town right-of-way, maintenance fees as established by the town may be assessed as part of the permit process.

Sec. 5.01.12. Tree relocation, ~~replacement~~replacement, or mitigation fee requirements.

(a) The applicant is encouraged and allowed, where practical, to relocate a tree to an appropriate new location on the site. The relocation of a tree shall be performed in accordance with accepted forestry practices after evaluating the species, size, quality, and number of trees.

(b) Conditions for approval of a tree removal permit shall include tree replacement and/or mitigation fees.

(1) *Tree replacement:* Protected trees of any DBH approved by the town~~requested~~ to be removed ~~because they are deemed to be dead or beyond recovery, hazardous, or deteriorated~~ shall be replaced on a DBH inch for inch basis with replacement trees equivalent to the DBH inch for inch replacement. The replacement trees shall meet the replacement tree standard in (c) below. ~~one approved replacement tree having a minimum caliper of three inches~~ In addition, there may be more than one replacement

tree provided, or larger replacement trees provided, to meet the inch for inch DBH replacement requirement.. ~~Or, the applicant may be required to replace a tree being removed with another tree to be located elsewhere on the site. All replacement trees shall be of a type that will attain an overall height at maturity of at least 15 feet and a DBH of at least four inches, and shall be a minimum of eight feet in overall height with a DBH of two inches when planted.~~

(2) *Tree mitigation fees:* ~~Caliper~~ DBH inches not planted as replacement trees shall require the applicant to pay mitigation fees to the tree replacement T~~t~~rust Fund at a rate per ~~caliper~~ DBH inch per the financial mitigation costs established by resolution by the Windermere Town Council. Replacement of live oak trees shall be based upon an inch per inch ratio~~n~~. Replacement of ~~historic~~ heritage trees shall be based upon a ~~3:1~~1:3 ratio. For every one inch of DBH removed of a heritage tree, three inches of DBH must be replaced.

(c) ~~All~~ A minimum of 75% of replacement trees must be indigenous to the State of Florida, provide the similar growth and shade characteristics of the tree removed, and selected from the ~~-~~current UF|IFAS Plant Guide ~~list of "Official Tree and Palm Species"~~ as set forth in Section 5.01.18~~.~~, and shall be a minimum of eight feet in overall height with a three-inch caliper (two-inch DBH) when planted. The remaining 25% must be Florida-Friendly Landscaping ™ as provided by the current UF|IFAS Plant Guide.

Sec. 5.01.13. Tree replacement trust fund.

(a) The town council hereby creates a tree replacement trust fund. All funds collected as tree mitigation fees shall be administered by the town manager or his designee with the advice of the Windermere Tree Board.

(b) Disbursements from the tree replacement trust fund shall be made only for the following purposes:

(1) Purchasing trees for planting and any associated costs in accordance with the town's tree planting program.

(2) Purchases necessary for improvements (specifically urban forestry vehicles and equipment) including contract services for the town's urban forestry program.

(3) Protection of trees and enforcement of this division.

(4) Tree conservation and educational programs.

(5) Matching funds for urban forestry grant projects for the Town of Windermere.

Sec. 5.01.14. Penalty.

(a) Any agent or representative, including without limitation a contractor or subcontractor, who applies for a tree removal permit on behalf of a property owner or, who on behalf of a property owner removes a tree or otherwise violates this division without appropriate permits or town approval, is jointly and severally liable with the property owner for resulting costs, fees, or fines. The town may pursue, in its sole discretion, one or more liable parties to recover said costs, fees or fines.

(b) Any person or entity who is liable for unpaid costs, fees or fines under this division is subject to the placement of a "stop work~~"~~ order" on any project involving said person or entity until such time as the costs, fees or fines are paid and such is certified as having occurred by the town. No person or entity that is liable for unpaid costs, fees, or fines under this division shall be entitled to obtain or perform work under any other permits until such time as the costs, fees, or fines are paid and such is certified as having occurred by the town. No person or entity that is liable for unpaid costs, fees, or fines under this division shall be entitled to obtain a certificate of occupancy until such time as the costs, fees, or fines are paid and such is certified as having occurred by the town.

(c) If it is determined that the property owner or agent failed to receive the proper permits prior to removal of trees, the registered property owner will be fined twice the amount due for mitigation purposes. If payment is not received within 30 days of the determination of the penalty, the town may seek a lien on the property and assess legal and filing fees in addition to the penalty amount.

Sec. 5.01.15. Appeals.

(a) Upon denial of permit, or conditions placed thereon for tree removal permit, the grounds for such action shall be given to the applicant in writing. Applicants may appeal the denial decision or specific conditions placed on the approval.

(b) All appeals of tree mitigation fees, replacement requirements, and penalties shall be submitted in writing to the town manager within ten days after the permit is issued or after a penalty is imposed.

(c) Following the receipt of a written request to appeal a denial of a tree removal permit or a request to appeal conditions placed on the approval of a tree removal permit the town manager shall consider the appeal within 30 days or as soon as possible thereafter and make a final decision. The final decision of the town manager shall be sent to the applicant by certified and regular mail within ten days.

(d) The applicant may appeal the decision of the town manager to the town council if a further appeal is filed within 15 days of the date of the decision by the town manager. The town council may reverse, ~~modify~~modify, or uphold the decision of the town manager at its next available regular scheduled meeting or at a later meeting if requested by the applicant or the town.

(e) Except in the event of an emergency as declared by the town manager, removal of a protected tree without a permit, except as allowed under this division, shall make void any appeals.

(f) Removal of protected trees requested on the tree removal permit application is regarded as the applicant's acceptance of the conditions for removal as stated on the application and voids any appeals.

Sec. 5.01.16. Dead or diseased trees on private property.

The town shall have the right to cause the removal of any dead or diseased trees on private property within the town, when such trees ~~constitute~~ are deemed hazardous by a Certified Arborist or Florida licensed landscape architect~~a hazard to life and property~~, or harbor insects or disease which constitute a potential threat to other trees within the town. The town will notify in writing the owners of such trees. Said owners, at their own expense, shall comply with removal within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the town shall have the authority to remove such trees and charge the cost of removal and disposal to the owners or otherwise recoup costs in accordance with the provisions of the Town's Code of Ordinances or Land Development Code.

Sec. 5.01.17. Development site tree protection standards.

(a) During construction and development, all reasonable steps necessary to prevent destruction or damage to trees and native vegetation shall be ~~taken~~consistent with the Tree Protection Zone (TPZ) as defined in Section 5.01.04 of this division. All tree and landscape work shall be governed by the American National Standards Institute (ANSI) A-300 Series and the best management practices. Unless otherwise authorized by a tree removal permit, trees and native vegetation destroyed or receiving major damage must be replaced by trees and vegetation of equal environmental value, as specified by the town manager or his designee (permitting authority~~), before~~) before occupancy or use. However, an alternative tree protection plan prepared by an ISA Certified Arborist or Florida Licensed Landscape Architect may be submitted to the town for review and consideration for approval if it provides the proper protection for the construction activity not to negatively impact the tree's health.

(b) Approved tree removal permits are to be posted on site, legible, and visible from the street prior to commencement and throughout completion of the work.

(c) During construction, unless otherwise authorized by a tree removal permit or approval by the town manager or his designee, (i) no parking or use of vehicles, equipment or machinery, or (ii) no storing or dumping any material, trash, construction debris, or liquids, or (iii) no construction, excavation, trenching. ~~no~~ excess soil, or additional fill, ~~equipment, liquids, or construction debris~~ shall be placed within the drip~~-~~line and tree protection zone of any tree that is required to be preserved in its original location.

(d) No attachments or wires other than those of a protective and non-damaging nature shall be attached to any tree during construction or development.

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

(f) Prior to construction, the permit applicant is required to have the following protective barriers and measures put in place:

(1) All protective barriers shall be installed and maintained for the period of time beginning ~~with~~ prior to the commencement of any land clearing or building operations and ending with the completion of the permitted clearing or building construction work on the site, whichever is later.

(2) The applicants for a tree removal permit shall, at the time of application, designate an on-site representative for the installation and maintenance of all tree and shrub protective barriers.

(3) The tree protection ~~circumference of an area~~zone ~~to be preserved~~ shall be protected during all land development and construction activities by the placement of protective barricades at the outer limits of the tree protection zone. The protective barricade for all protected trees must be a minimum of 4-foot-high and made of materials with a functional lifespan greater than the anticipated construction schedule. The protective barricade for all specimen and heritage trees must be made of 6-foot-high metal chain link fencing securely attached to metal posts. ~~placing two-inch by two-inch wood stakes a maximum of 20 feet apart around the tree protection zone and by tying fluorescent ribbon, survey flagging, etc., from stake to stake along the perimeter of the areas to be preserved.~~Posts to support the protective barricade must be spaced no farther than 10 feet apart, and the barricade fencing must have a continuous screen/fence a minimum of 4 feet higher than ground level at the barricade. If at any point during construction the barricade does not meet these credentials, a "stop work order" may be placed on the project until the barricade is corrected.

(4) When protection of ~~individual~~ trees is required, a 3" minimum thickness of organic mulch ~~protective barrier~~ shall ~~be placed around~~ cover the entire~~the perimeter of the base at a distance not less than the~~ tree protection zone except that a clear area of 6 inches must remain around the perimeter of the tree trunk~~drip line~~.

(5) A tree protection sign shall have a background color of white or yellow and be a minimum of two feet wide by ~~three~~ two feet high consisting of durable rigid, plastic or metal material with ~~non-fading~~non-fading lettering, legibly printed in characters ~~a minimum of one~~ having a contrast ratio of at least 4.5:1 with styles and character heights as stated below~~and one-half inches high.~~ on its face. Tree protection signs and barriers are to be maintained through job completion or as otherwise required by the town manager or his designee. A minimum of one sign is required per twenty-five linear feet of barrier. Sign text shall ~~be~~ include ~~in~~ both English and Spanish and shall read:

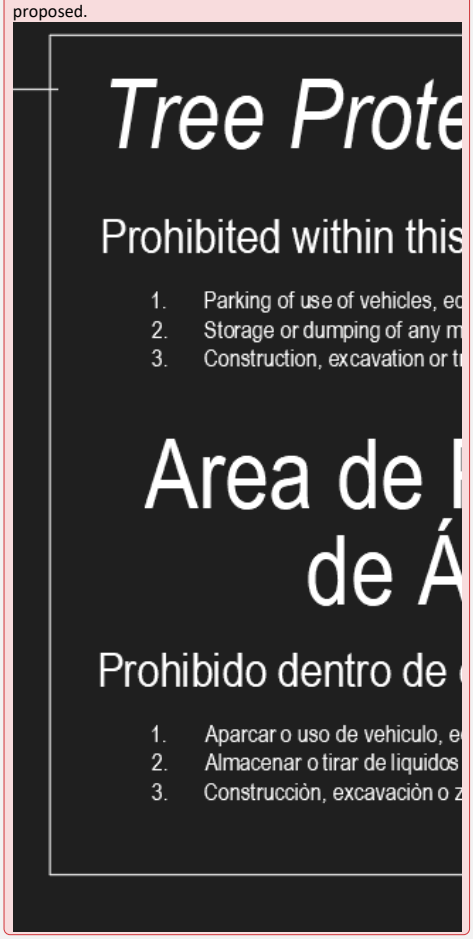
2" High Minimum – BOLD	*"Tree Protection ~~Area~~Zone"*
1" High Minimum – BOLD	"Prohibited within this area: "
1/2" High Minimum	"1. Parking of use of vehicles, ~~equipment~~equipment, or machinery."

1/2" High Minimum	"2.	Storage or dumping of any materials or liquids. "
1/2" High Minimum	"3.	Construction, ~~excavation~~excavation, or trenching. "
2" High Minimum – BOLD	"~~Area~~ Zona de Protection de Árboles "	
1" High Minimum – BOLD	"Prohibido dentro de esta area: "	
1/2" High Minimum	"1.	Aparcar o uso de vehiculo, equipamiento, o maquinaria."
1/2" High Minimum	"2.	Almacenar o tirar de liquidos o materiales. "
1/2" High Minimum	"3.	Construcciòn, excavaciòn o zanjas."

~~(6) Unless prior~~specific written ~~approval is granted by the town manager or his designee, the following activities are prohibited within the drip line of a protected tree or within ten feet of its trunk, whichever is greater: (i) parking or use of vehicles, equipment or machinery, or (ii) storing or dumping any material of liquids, or (iii) construction, excavation or trenching.~~

Commented [CT1]: Verbiage with height stated does not fit on sign described.

Commented [CT2R1]: This is an exampe of what is proposed.



Sec. 5.01.18. Official tree and palm species.

~~The following list constitutes the official~~T ~~t~~ree and palm species for the Town of Windermere, Florida are outlined in the Florida-Friendly Landscaping™ Plant Guide as generated and maintained by the University of Florida, Institute of Food and Agricultural Sciences (UF|IFAS). The goal is to plant the right tree in the right place. Species selections should be listed as suitable for the current U.S. Department of Agriculture (USDA) Plant Hardiness Zone for the specific planting location. No species other than those included in the current UF|IFAS Plant Guide ~~this list~~ may be planted as street trees ~~or palms~~, park trees, ~~or palms~~ or as trees ~~or palms~~ planted in other public places. Trees ~~and palms~~ not included in the current UF|IFAS Plant Guide ~~official tree species list~~ will be considered by the town manager or his designee for use in landscaping on private property provided they are indigenous, drought tolerant and are not invasive or noxious:

~~Small Trees (Understory and Near Power Lines)~~	~~Medium Trees~~	~~Large Trees~~
~~Bottlebrush~~	~~Ash, Carolina~~	~~Bay, Red~~
~~Cherry Laurel~~	~~Ash, Green~~	~~Bay, Swamp~~
~~Citrus Trees, Florida~~	~~Ash, Pumpkin~~	~~Birch, River~~
~~Crape Myrtle~~	~~Bay, Loblolly~~	~~Black Cherry~~
~~Dogwood, Flowering~~	~~Beech, American~~	~~Cypress, Bald~~
~~Dogwood, Swamp~~	~~Boxelder~~	~~Cypress, Pond~~
~~Florida Yew~~	~~Carolina Laurelcherry~~	~~Elm, Chinese~~
~~Fringetree~~	~~Crepe Myrtle~~	~~Elm, Drake~~
~~Fruit Trees, Florida~~	~~Holly, American~~	~~Elm, Winged~~
~~Gum Bumelia~~	~~Holly, East Palatka~~	~~Hickory, Mockernut~~
~~Hawthorn, Mayhaw~~	~~Mahogany~~	~~Hickory, Pignut~~
~~Hawthorn, Parsley~~	~~Magnolia, Little Gem~~	~~Hickory, Water~~
~~Hawthorne, Cockspur~~	~~Magnolia, Sweetbay~~	~~Magnolia, Bigleaf~~
~~Hawthorne, Littlehip~~	~~Oak, Darlington~~	~~Magnolia, Southern~~
~~Hawthorne, Washington~~	~~Oak, Heritage~~	~~Maple, Florida~~
~~Holly, Burford~~	~~Oak, Overcup~~	~~Oak, Laurel~~
~~Holly, Dahoon~~	~~Oak, Post~~	~~Oak, Live~~
~~Holly, Luster~~	~~Oak, Turkey~~	~~Oak, Shumard~~
~~Holly, Weeping Yaupon~~	~~Oak, Willow~~	~~Oak, Southern Red~~
~~Jerusalem Thorn~~	~~Palm, Cabbage~~	~~Oak, Swamp Chestnut~~

~~Ligustrum~~	~~Palm, Canary Island Date~~	~~Oak, Swamp Laurel~~
~~Loquat~~	~~Palm, Chinese Fan~~	~~Oak, Water~~
~~Oak, Bluejack~~	~~Palm, Sabal~~	~~Oak, White~~
~~Palm, Pindo~~	~~Persimmon~~	~~Palm, Date~~
~~Plum, American~~	~~Red Buckeye~~	~~Palm, Washingtonia~~
~~Plum, Chickasaw~~	~~Red Cedar, Southern~~	~~Pine, Loblolly~~
~~Plum, Flatwoods~~	~~Red Mulberry~~	~~Pine, Longleaf~~
~~Privet, Japanese~~	~~Redbud~~	~~Pine, Pond~~
~~Red Buckeye~~	~~Sassafras~~	~~Pine, Slash~~
~~Redbud, Eastern~~	~~Trumpet, Golden~~	~~Poplar, Tulip~~
~~Simpson's Stopper~~	~~Trumpet, Pink~~	~~Sugarberry~~
~~Wax Myrtle~~	~~Willow, Black~~	~~Sweetgum~~
	~~Witchhazel~~	~~Sycamore~~
		~~Tupelo, Black~~
		~~Tupelo, Water~~

DIVISION 5.01.00. TREES

Sec. 5.01.01. Purpose.

The purpose of this division is to:

(1) Sustain the forest canopy and the urban forest of the town for future generations.

(2) Establish rules and regulations governing the protection of trees within the town.

(3) Preserve the proliferation of trees as well as their replacement within the town.

(4) Maintain public and private trees in a healthy and non-hazardous condition through good arboricultural practices.

(5) Establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest.

(6) Minimize the removal of protected trees.

(7) Require compensation for the loss of protected, heritage and specimen trees in all stages of maturity on public and private property.

(8) Preserve the community's character and quality of life well into the future.

Sec. 5.01.02. Intent of Tree City USA Program.

The Town of Windermere desires to be an active participant of the Tree City USA program and to achieve the standards set forth by the Arbor Day Foundation. The Town shall adopt and enact administrative policies, regulations, standards and procedures necessary to ensure the town, which has been declared a "Tree City USA" community, will continue to be a recognized participant in this program.

Sec. 5.01.03. Definitions.

ANSI means the American National Standards Institute.

Best management practices (BMP) means the best-available, industry-recognized courses of action, in consideration of the benefits and limitations, based on scientific research and current knowledge.

Buildable area means the portion of the site on which a structure or improvement may be erected.

Caliper means a nursery standard measurement of a tree's trunk diameter as measured at a predetermined point of measurement. Trunk caliper for trees up to four inches shall be measured six inches above the soil line. Trees greater than four inches in caliper shall be measured 12 inches above the soil line. Caliper measurements used when measuring replacement trees are one inch greater than DBH measurements.

Canopy means collective branches and foliage of a tree or group of trees' crowns. A canopy can be closed or partially closed as in a forest or woodland stand or composed of both individual trees and closed canopy groups as in an urban forestry canopy.

Certified arborist means a professional who possesses the technical competence gained through experience, related training, and professional certification to provide for or supervise the management of trees and other

woody plants in residential, commercial, and public landscapes. These arborists must be certified by the International Society of Arboriculture.

Clump(s) of Trees means a group of two or more protected trees of similar species whose trunks are spaced five feet or closer from trunk to trunk. Clumps of trees may be shown on a site plan with common and botanical name, the estimated number of trees, and average DBH of trees in the clump. In lieu of individual protected trees. specimen and heritage trees must be represented individually and may not be included as part of a designated clump of trees.

Crown means the upper part of tree, measured from the lowest branch, including all the branches and foliage.

Dead or *beyond recovery* means that more than 50 percent of the tree is dead, the tree is a hazardous tree as defined herein, or the tree is in a state of irrecoverable decline.

Deteriorated tree or *deterioration* means a tree, which is degenerated or damaged by a biological pathogen, or pest to the point of death of the tree is imminent.

Development means any land disturbing activities including but not limited to: building construction, paving, landscaping, and creation of drainage or water catchment areas, grading, earth filling, utility installation or any other activity which may adversely affect trees either above or below ground.

Diameter at breast height (DBH) means the diameter of a tree as measured four feet, six inches above the soil line, and when using the Guide for Plant Appraisal (9th Ed.) For multi-trunked trees, the DBH shall mean the cumulative diameter of the two largest trunks. The Guide for Plant Appraisal (9th Ed.) or as amended will be the resource standard for measuring trees. For the purpose of this code, DBH for replacement trees may be calculated as one inch less than the caliper measurement of a replacement tree.

Dripline means a vertical line that runs from the outermost circumference of the tree branches and extends to the ground. For trees with canopies set off center, the dripline will be projected based on the average diameter of the existing dripline using the tree trunk as its point of origin.

Drought tolerant means various plant species that survive on natural rainfall without the need for supplemental irrigation after establishment.

Exempt tree means a tree with a DBH less than eight inches and palm trees with less than four and one-half feet of clear trunk. Exempt trees do not require a permit for removal. Exempt trees may not be used to calculate required canopy and may not be used as replacement trees.

Hazardous tree means a tree or part of a tree with a structural defect, combination of defects or disease resulting in a structural defect that, under the normal range of environmental conditions at the site, will result in the loss of a major structural component of the tree in a manner that may damage a residential structure, accessory structure, place of employment, public assembly, permitted parking, public road, or utility; or may delay emergency access in the case of medical hardship. A hazardous tree cannot be controlled or remedied through reasonable preservation and/or preventative procedures and pesticides such that the public health or safety requires its removal.

Heritage tree means any protected tree(s) which is 36 inches in DBH or greater. Any tree in the town selected and duly designated a Florida State Champion, United States Champion or a World Champion by the American Forestry Association shall likewise be deemed a heritage tree.

Indigenous means species of plant or vegetation which is native to the State of Florida.

Invasive species means any non-indigenous species that crowds out or takes over native species habitats.

Landscape Architect means a person who holds a valid license to practice landscape architecture in the State of Florida.

Landscaping means any of the following or combination thereof: Living material such as but not limited to, grass, ground covers, shrubs, vines, hedges, and trees. Landscaping may include, for accent purposes, nonliving material such as, but not limited to, rocks, mulch, pebbles, decorative walls, or fences, but excluding paving.

Noxious means any non-indigenous species that crowds out or takes over native species habitats.

Palm tree means a monocotyledonous plant of the Palmacea family. With some exceptions, it has an unbranched trunk; its leaves group at the end of the trunk and form a type of tuft. Care, maintenance and pruning of palm trees will be governed by and all related ANSI publications as they relate to trees and landscape, adopted by the International Society of Agriculture (ISA), American Consulting Arborists (ASCA) and Tree Care Industry Association (TCIA) formerly the National Arborists Association (NAA). Palm trees shall be measured according to Florida grades and standards.

Park tree means trees in public parks and all areas owned by the Town.

Person means an individual, partnership, corporation, association, or other legal entity, and shall include the plural as well as the singular.

Private tree means trees in areas owned by private, residential, or commercial property owners.

Protected tree means any tree, except exempt trees, of a species that normally grows to a mature height of 25 feet or greater and has a tree trunk DBH of eight inches or greater and is not an exempt tree. Includes palm trees with more than four and one-half feet of clear trunk, any replacement tree, any non-exempt tree that is represented in a planning document for the purposes of securing an approved building or demolition permit, and all trees on Town property.

Pruning means removing or reducing tree limbs to benefit the overall health and safety of a tree. Care, maintenance and pruning shall be done according to current standards established by the American National Standards Institute (ANSI) A-300, Part 1, and all related ANSI publications as they relate to trees and landscape, adopted by the International Society of Agriculture (ISA), American Consulting Arborists (ASCA) and Tree Care Industry Association (TCIA) formerly the National Arborists Association (NAA).

Removal of a tree means either actually removing a tree from the ground which it grew, transplanting a tree, or effectively removing a tree through damage to the trunk, topping, damaging, or removing major limbs, roots, or enough canopy volume so that the tree dies, declines beyond recovery, or becomes a hazard to public safety and must be removed. The term "removal" includes removal, removing, or actual displacement or effective displacement through damaging.

Replacement tree means any tree planted as a condition of approval of a tree removal permit or as required to meet the conditions of an approved plan for development. Any tree planted as a requirement for tree mitigation due to an illegal removal is a Replacement tree.

Right-of-way means land which is owned by a governmental entity or has an easement devoted to for use as a transportation facility or street. The storm water areas associated with the transportation facility shall be included in this definition.

Site means that parcel of land for which any permit from the town is sought.

Size means the tree's DBH for trees in the urban forest or the tree’s caliper for nursery stock.

Specimen tree means any tree with a DBH of 18 inches or larger and is not an exempt tree.

Stop work order means notice stating the reason(s) for stopping work, in writing, given to the owner of the property, or to his/her agent, or to the person doing the work, or a notice posted at the property upon which the tree work is being performed requiring that all work cease.

Street tree means trees on rights-of-way on either side of any lanes, streets, avenues, or ways within the town.

Tree means a self-supporting woody or fibrous perennial woody or fibrous perennial plant usually having one dominant trunk which normally grows, or is capable of growing, in the central and north-central area of Florida to a mature height of a minimum of 15 feet and to a minimum DBH of not less than four inches.

Top or topping means the severe cutting back of limbs or trunks within the crown of a tree (25 percent or more) so as to remove the normal canopy and alter the natural growth habit of the tree, inappropriate pruning technique to reduce tree size, or cutting back a tree to a predetermined crown limit, often at internodes.

Tree protection zone (TPZ) means the defined area within which certain activities are prohibited or restricted to prevent or minimize potential injury to designated trees, especially during construction or development. This shall mean an area surrounding a tree encompassed by a tree's drip line. The TPZ shall be a minimum of a three foot radius from the outside edge of the trunk of all palms. The TPZ for protected trees shall be one foot away from the outer edge of the trunk for each inch of DBH. For example, a 24-inch DBH tree would have a TPZ twenty-four feet from the edge of the trunk, or a twenty-six foot radius as measured from the estimated center of the tree trunk.

Trenching means linear or curved open excavation often used to install utilities or structural footings.

Urban forest means the ecosystem containing all woody and associated vegetation throughout the Town.

Yard means the open space on the same lot with a principal building which is unoccupied by buildings or paving.

Sec. 5.01.04. Applicability.

The terms and provisions of this division shall apply to all protected trees, located on real property within the town.

Sec. 5.01.05. Exceptions.

(a) The following are exempt from the provisions of this division:

(1) Trees located in state-licensed, governmental, and commercial plant or tree nurseries or botanical gardens in which the trees are planted for the sale or intended sale to the general public in the ordinary course of business.

(2) Trees in active commercial operation for bona fide agricultural purposes.

(3) Trees that interfere with utility services, create unsafe vision clearance, or constitute a safety hazard as determined by the town manager or his designee.

(4) Trees that occur in the location of planned or future public utility services or public roads.

(5) Exempt trees as defined within this code.

(6) Trees located within buildable area or yard area as defined by the applicable zoning standards for the subject property.

(7) Trees that are exempted from any Town requirement for tree permitting or mitigation for developed and occupied single-family properties consistent with the requirements of Section 1643.045, Florida Statutes. For action taken under this subsection, and not consistent with the requirements of Section 163.045, Florida Statutes, the town may require some or all of the following documentation; the arborist's or the landscape architect's identity and proof of certification; the arborist's or the landscape architect's written report; pictures of the tree prior to any action to prune, trim or remove; and a written description of the particular danger to persons or property presented by the tree. Consistent with the requirements of Section 163.045, Florida Statutes, the town may not require documentation prior to or as requirement to allow the tree removal or trimming.

(8) For trees that are not statutorily exempt from local tree permitting or mitigation as provided in Section 163.045, Florida Statutes, a tree is exempt if the property owner provides documentation to the Town from an arborist certified by the ISA or a Florida licensed landscape architect that the tree poses an unacceptable risk to persons or property. A tree poses an unacceptable risk if removal is the only means of practically mitigating its risk below moderate, as determined by the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017).

(b) The following exempt trees are considered undesirable, invasive and shall be exempt from the provisions of this division. No tree removal permit is required to remove species documented as noxious or invasive by the Florida Invasive Species Council (FISC), Florida Department of Agriculture and Consumer Services, or U.S. Department of Agriculture (USDA).

Sec. 5.01.06. Special exceptions due to emergencies.

During a period of an emergency such as a hurricane, tropical storm, tornado, or flood, as declared by the State of Florida for Orange County or the town manager or his designee, the removal of all trees destroyed or harmed during such an emergency by natural forces which are beyond saving or which are a hazard to public safety shall be exempt from the provisions of this division for a period of 30 days following such occurrence or during the effective period of the emergency declaration, whichever is longer.

Sec. 5.01.07. Trees requiring tree removal permits.

No person, directly or indirectly, shall cut down, destroy, top, abusively prune, remove, move, or effectively destroy through damaging, any protected tree, specimen tree, replacement tree, or heritage tree within the town without first applying for and receiving a tree removal permit approving such act or acts. This requirement does not apply to exempt trees.

Sec. 5.01.08. Tree permit application.

Permits required by this division for the removal of protected, specimen, replacement, or heritage trees shall be obtained by filing an application for the permit with the town manager or his designee. The application shall include a written statement specifying the location of the property and indicate the reasons for the removal, relocation, or replacement of trees thereon. The application shall be accompanied by two copies of a legible site plan drawn to a minimum scale of one-inch equals 20-feet unless, in the discretion of the town manager or his designee, it has been determined that a lesser detailed scale site plan of the area, either in whole or in part, will be sufficient for the purposes of this division, in which case an appropriate substitution shall be acceptable.

Sec. 5.01.09. Site plan information.

Site plans submitted in connection with an application for permits required by this division shall include the following information, summarized in legend form on the site plan:

(1) Location of all existing or proposed structures, 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 and proposed utility services.

(4) The common and botanical names, sizes, and locations of all trees, and clumps of trees on the site.

(5) The common and botanical names of areas of native vegetative cover which are respectively to be retained, removed, relocated, or replaced.

(6) The contractor or property owner shall confirm compliance with the tree protection and mitigation requirements of this division.

Sec. 5.01.10. Criteria for issuance of tree removal permits.

Each application for a tree removal permit shall be reviewed and a decision rendered on approval or denial (in whole or in part) on the basis of the following criteria:

(1) The health of the tree, i.e., whether the tree is deemed dead or beyond recovery, deteriorated or hazardous.

(2) The topography of the land and the effect of the tree removal upon erosion, soil retention and the diversion or increased flow of surface waters.

(3) The number, species, size, location and canopy of existing trees in the area.

(4) Whether structural improvements have been designed and located within the allowed building area to minimize the removal of protected trees.

(5) Whether the denial of the permit would create an unreasonable hardship on the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly zoned and situated properties.

Sec. 5.01.11. Application processing and approval process.

(a) Upon receipt of a completed application, the town manager or his designee shall examine, review, and respond. A field inspection of the site will be performed if deemed necessary. The application shall also be referred to other town departments, town boards, or other governmental agencies as may be necessary or required in order to determine whether any adverse effects will be incurred as to the general welfare of the public, adjacent properties or public services and facilities. Following any necessary on-site inspections by the town manager or his designee and comments received from appropriate departments, boards, or other governmental agencies, the permit application will be approved, disapproved, approved with conditions, or deemed not required in accordance with the provisions of this division.

(b) The town manager or his designee may, in his sole discretion, require the applicant to provide supportive data from a licensed certified arborist and/or other licensed professional such as a licensed landscape architect to substantiate the information provided on the application or to provide additional information deemed necessary by the town.

(c) In the event that a tree planting is approved on public property or town right-of-way, maintenance fees as established by the town may be assessed as part of the permit process.

Sec. 5.01.12. Tree relocation, replacement, or mitigation fee requirements.

(a) The applicant is encouraged and allowed, where practical, to relocate a tree to an appropriate new location on the site. The relocation of a tree shall be performed in accordance with accepted forestry practices after evaluating the species, size, quality, and number of trees.

(b) Conditions for approval of a tree removal permit shall include tree replacement and/or mitigation fees.

(1) *Tree replacement:* Protected trees of any DBH approved by the town to be removed shall be replaced on a DBH inch for inch basis with replacement trees equivalent to the DBH inch for inch replacement. The replacement trees shall meet the replacement tree standard in (c) below. In addition, there may

be more than one replacement tree provided, or larger replacement trees provided, to meet the inch for inch DBH replacement requirement..

(2) *Tree mitigation fees:* DBH inches not planted as replacement trees shall require the applicant to pay mitigation fees to the tree replacement Trust Fund at a rate per DBH inch per the financial mitigation costs established by resolution by the Windermere Town Council. Replacement of live oak trees shall be based upon an inch per inch ratio. Replacement of heritage trees shall be based upon a 1:3 ratio. For every one inch of DBH removed of a heritage tree, three inches of DBH must be replaced.

(c) A minimum of 75% of replacement trees must be indigenous to the State of Florida, provide the similar growth and shade characteristics of the tree removed, and selected from the current UF|IFAS Plant Guide as set forth in Section 5.01.18, and shall be a minimum of eight feet in overall height with a three-inch caliper (two-inch DBH) when planted. The remaining 25% must be Florida- Friendly Landscaping ™ as provided by the current UF|IFAS Plant Guide.

Sec. 5.01.13. Tree replacement trust fund.

(a) The town council hereby creates a tree replacement trust fund. All funds collected as tree mitigation fees shall be administered by the town manager or his designee with the advice of the Windermere Tree Board.

(b) Disbursements from the tree replacement trust fund shall be made only for the following purposes:

(1) Purchasing trees for planting and any associated costs in accordance with the town's tree planting program.

(2) Purchases necessary for improvements (specifically urban forestry vehicles and equipment) including contract services for the town's urban forestry program.

(3) Protection of trees and enforcement of this division.

(4) Tree conservation and educational programs.

(5) Matching funds for urban forestry grant projects for the Town of Windermere.

Sec. 5.01.14. Penalty.

(a) Any agent or representative, including without limitation a contractor or subcontractor, who applies for a tree removal permit on behalf of a property owner or, who on behalf of a property owner removes a tree or otherwise violates this division without appropriate permits or town approval, is jointly and severally liable with the property owner for resulting costs, fees, or fines. The town may pursue, in its sole discretion, one or more liable parties to recover said costs, fees or fines.

(b) Any person or entity who is liable for unpaid costs, fees or fines under this division is subject to the placement of a "stop work order" on any project involving said person or entity until such time as the costs, fees or fines are paid and such is certified as having occurred by the town. No person or entity that is liable for unpaid costs, fees, or fines under this division shall be entitled to obtain or perform work under any other permits until such time as the costs, fees, or fines are paid and such is certified as having occurred by the town. No person or entity that is liable for unpaid costs, fees, or fines under this division shall be entitled to obtain a certificate of occupancy until such time as the costs, fees, or fines are paid and such is certified as having occurred by the town.

(c) If it is determined that the property owner or agent failed to receive the proper permits prior to removal of trees, the registered property owner will be fined twice the amount due for mitigation purposes. If payment is not received within 30 days of the determination of the penalty, the town may seek a lien on the property and assess legal and filing fees in addition to the penalty amount.

Sec. 5.01.15. Appeals.

(a) Upon denial of permit, or conditions placed thereon for tree removal permit, the grounds for such action shall be given to the applicant in writing. Applicants may appeal the denial decision or specific conditions placed on the approval.

(b) All appeals of tree mitigation fees, replacement requirements, and penalties shall be submitted in writing to the town manager within ten days after the permit is issued or after a penalty is imposed.

(c) Following the receipt of a written request to appeal a denial of a tree removal permit or a request to appeal conditions placed on the approval of a tree removal permit the town manager shall consider the appeal within 30 days or as soon as possible thereafter and make a final decision. The final decision of the town manager shall be sent to the applicant by certified and regular mail within ten days.

(d) The applicant may appeal the decision of the town manager to the town council if a further appeal is filed within 15 days of the date of the decision by the town manager. The town council may reverse, modify, or uphold the decision of the town manager at its next available regular scheduled meeting or at a later meeting if requested by the applicant or the town.

(e) Except in the event of an emergency as declared by the town manager, removal of a protected tree without a permit, except as allowed under this division, shall make void any appeals.

(f) Removal of protected trees requested on the tree removal permit application is regarded as the applicant's acceptance of the conditions for removal as stated on the application and voids any appeals.

Sec. 5.01.16. Dead or diseased trees on private property.

The town shall have the right to cause the removal of any dead or diseased trees on private property within the town, when such trees are deemed hazardous by a Certified Arborist or Florida licensed landscape architect, or harbor insects or disease which constitute a potential threat to other trees within the town. The town will notify in writing the owners of such trees. Said owners, at their own expense, shall comply with removal within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the town shall have the authority to remove such trees and charge the cost of removal and disposal to the owners or otherwise recoup costs in accordance with the provisions of the Town's Code of Ordinances or Land Development Code.

Sec. 5.01.17. Development site tree protection standards.

(a) During construction and development, all reasonable steps necessary to prevent destruction or damage to trees and native vegetation shall be consistent with the Tree Protection Zone (TPZ) as defined in Section 5.01.04 of this division. All tree and landscape work shall be governed by the American National Standards Institute (ANSI) A-300 Series and the best management practices. Unless otherwise authorized by a tree removal permit, trees and native vegetation destroyed or receiving major damage must be replaced by trees and vegetation of equal environmental value, as specified by the town manager or his designee (permitting authority) before occupancy or use. However, an alternative tree protection plan prepared by an ISA Certified Arborist or Florida Licensed Landscape Architect may be submitted to the town for review and consideration for approval if it provides the proper protection for the construction activity not to negatively impact the tree’s health.

(b) Approved tree removal permits are to be posted on site, legible, and visible from the street prior to commencement and throughout completion of the work.

(c) During construction, unless otherwise authorized by a tree removal permit or approval by the town manager or his designee, (i) no parking or use of vehicles, equipment or machinery, or (ii) no storing or dumping any material, trash, construction debris, or liquids, or (iii) no construction, excavation, trenching. excess soil, or

additional fill, , shall be placed within the dripline and tree protection zone of any tree that is required to be preserved in its original location.

(d) No attachments or wires other than those of a protective and non-damaging nature shall be attached to any tree during construction or development.

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

(f) Prior to construction, the permit applicant is required to have the following protective barriers and measures put in place:

(1) All protective barriers shall be installed and maintained for the period of time beginning prior to the commencement of any land clearing or building operations and ending with the completion of the permitted clearing or building construction work on the site, whichever is later.

(2) The applicants for a tree removal permit shall, at the time of application, designate an on-site representative for the installation and maintenance of all tree and shrub protective barriers.

(3) The tree protection zone shall be protected during all land development and construction activities by the placement of protective barricades at the outer limits of the tree protection zone. The protective barricade for all protected trees must be a minimum of 4-foot-high and made of materials with a functional lifespan greater than the anticipated construction schedule. The protective barricade for all specimen and heritage trees must be made of 6-foot-high metal chain link fencing securely attached to metal posts. Posts to support the protective barricade must be spaced no farther than 10 feet apart, and the barricade fencing must have a continuous screen/fence a minimum of 4 feet higher than ground level at the barricade. If at any point during construction the barricade does not meet these credentials, a "stop work order" may be placed on the project until the barricade is corrected.

(4) When protection of trees is required, a 3" minimum thickness of organic mulch shall cover the entire tree protection zone except that a clear area of 6 inches must remain around the perimeter of the tree trunk.

(5) A tree protection sign shall have a background color of white or yellow and be a minimum of two feet wide by two feet high consisting of durable rigid, plastic or metal material with non-fading lettering, legibly printed in characters having a contrast ratio of at least 4.5:1 with styles and character heights as stated below on its face. Tree protection signs and barriers are to be maintained through job completion or as otherwise required by the town manager or his designee. A minimum of one sign is required per twenty-five linear feet of barrier. Sign text shall include both English and Spanish and shall read:

2" High Minimum – BOLD	*"Tree Protection Zone"*
1" High Minimum – BOLD	"Prohibited within this area: "
1/2" High Minimum	"1. Parking of use of vehicles, equipment, or machinery."
1/2" High Minimum	"2. Storage or dumping of any materials or liquids. "
1/2" High Minimum	"3. Construction, excavation, or trenching. "
2" High Minimum – BOLD	"Zona de Protection de Árboles "
1" High Minimum – BOLD	"Prohibido dentro de esta area: "
1/2" High Minimum	"1. Aparcar o uso de vehiculo, equipamiento, o maquinaria."
1/2" High Minimum	"2. Almacenar o tirar de liquidos o materiales. "
1/2" High Minimum	"3. Construcciòn, excavaciòn o zanjas."

Sec. 5.01.18. Official tree and palm species.

Tree and palm species for the Town of Windermere, Florida are outlined in the Florida-Friendly Landscaping™ Plant Guide as generated and maintained by the University of Florida, Institute of Food and Agricultural Sciences (UF|IFAS). The goal is to plant the right tree in the right place. Species selections should be listed as suitable for the current U.S. Department of Agriculture (USDA) Plant Hardiness Zone for the specific planting location. No species other than those included in the current UF|IFAS Plant Guide may be planted as street trees, park trees, or as trees planted in other public places. Trees not included in the current UF|IFAS Plant Guide will be considered by the town manager or his designee for use in landscaping on private property provided they are indigenous, drought tolerant and are not invasive or noxious: