

ORDINANCE #ORD2018-01

AN ORDINANCE OF THE CITY OF DUNNELLON, FLORIDA, AMENDING CHAPTER 2, DIVISION 4 OF THE CODE OF ORDINANCES TO DISSOLVE THE TREE BOARD; AMENDING CHAPTER 94, ARTICLE II OF THE CODE OF ORDINANCES TO AMEND THE POWERS AND DUTIES OF THE PLANNING COMMISSION AND VACATING AND REPLACING CHAPTER 74, ARTICLE III OF THE CODE OF ORDINANCES, ENTITLED 'TREES' TO INCLUDE PROVISIONS FOR DEFINITIONS, CRITERIA FOR ISSUANCE OF PERMITS FOR TREE REMOVAL, EXEMPTIONS, PRESERVATION, RELOCATION, MAINTENANCE, A TREE RESTORATION TRUST FUND, PENALTIES AND APPEALS; PROVIDING FOR SEVERABILITY; CODIFICATION; CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the Dunnellon City Council finds that trees provide many benefits, including, but not limited to, provision of shade, noise attenuation, protection from soil erosion, temperature amelioration, provision of wildlife habitat, and visual beauty; and

WHEREAS, the City Council finds it is necessary and in the best interest of the public health, safety and welfare to update and amend its procedures whereby the City can protect trees and to encourage, as necessary, their proper maintenance, propagation, and replacement.

LESIGLATIVE UNDERSCORING: Underlined words constitute additions to the City of Dunnellon City Code, ~~strikethrough~~ constitutes deletions from the original, and asterisks (***) indicate an omission from the existing text which is intended to remain unchanged.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dunnellon, Florida, as follows:

SECTION 1. The above recitals (Whereas clauses) are hereby adopted as legislative findings, purpose and intent of the City Council.

SECTION 2. Section 2-236 of Division 4, "Tree Board," Chapter 2 of the Code of ordinances, is hereby vacated and deleted in its entirety which vacation and deletion shall serve to hereby dissolve the Tree Board. The provisions to be vacated and deleted are attached as Exhibit "A."

SECTION 3. Section 94-37 of Article II, "Planning Commision," Chapter 94 of the Code of Ordinances, is hereby amended as follows.

Sec. 94-37. - Powers and duties.

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The function, powers, and duties of the city's planning commission shall be as follows:

(6) Make, or cause to be made, any necessary special studies on the location, condition, and adequacy of specific facilities in the area. These may include, but are not limited to, studies on housing, commercial and industrial conditions and facilities, public and private utilities, traffic, transportation, and parking.

(7) The commission shall have the following responsibilities regarding tree care within the City:

a. review all applications for tree removal permits associated with major site plans (as defined in Section 74-61 of this Code) and preliminary subdivision plats and make recommendation to approve, deny, or approve such permits with conditions to the City Council.

b. hear all appeals from administrative interpretations of the City Administrator or designee pertaining to tree removal and replacement under Chapter 74, of this Code. The appeal process regarding administrative interpretations of the City Administrator or designee pertaining to tree removal and replacement shall be as set forth under Chapter 74 of this Code in lieu of the procedures set forth in Sec. 94-37 (10), (13) – (16) of this ordinance.

~~(7)~~ (8) Perform any other duties which may be lawfully assigned to the planning commission by the city council.

~~(8)~~ (9) Perform any and all functions, powers and duties as enumerated in F.S. § 163.2511 et seq.

~~(9)~~ (10) Appeals. To hear and make recommendations to the City Council on appeals when it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance or regulation adopted pursuant to law.

~~(10)~~ (11) Special exceptions.

~~(11)~~ (12) Variances.

~~(12)~~ (13) Review of administrative orders.

~~(13)~~ (14) Procedure for appeals.

~~(14)~~ (15) Stay of work and proceedings on appeal.

~~(15)~~ (16) Hearing of appeals.

~~(16)~~ (17) Applications; notice of commission procedure with regard to land planning/zoning cases, site plan reviews, variances, supplemental standards, and review/appeal of administrative orders, variances, special exceptions and appeals of administrative decisions.

SECTION 3. Article III, “Trees,” of Chapter 74 of the Code of Ordinances is vacated and deleted, and a new Article III, “Trees,” of Chapter 74 shall read as follows. For ease in reading, legislative underscoring (underlining) is not used in this Section.

Sec. 74-61. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

After the fact refers to submitting a tree removal permit after the tree has been removed.

Caliper. Measurement of tree twelve (12) inches from soil level.

Certified arborist a person who is currently credentialed through the International Society of Arboriculture.

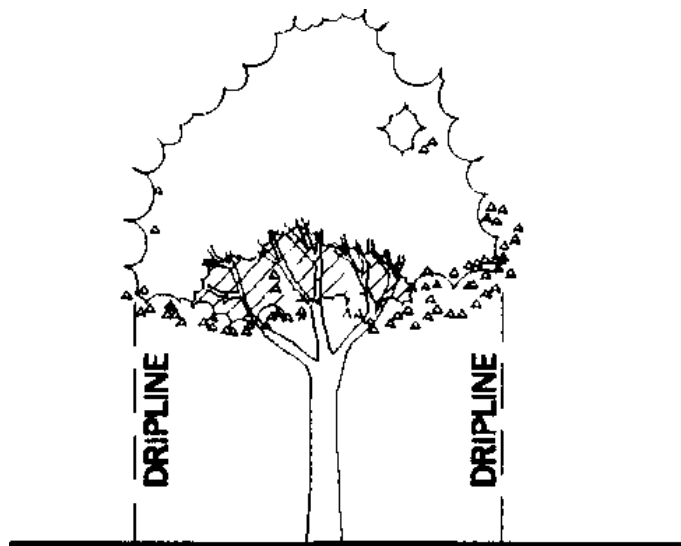
Dead tree means a tree that is still standing but no longer grows or produces leaves, or is damaged from lightning, fire, old age, wind, or other acts of God.

Development means the activities as described in Section 163.3164, Florida Statutes, which is hereby adopted and incorporated by reference.

Diameter at breast height (DBH) means the tree trunk diameter as measured at fifty-four (54) inches above the natural grade at the base of the tree.

Diseased tree means a protected tree determined by the City Administrator or designee to be damaged from disease or insects and dangerous to the health or safety of other protected trees, structures, objects, or persons. If the City Administrator or designee is unable to determine the health of the tree, then a forestry consultant, certified arborist, or other professionally qualified person shall be required to make the determination.

Drip line means the ground area surrounding the trunk of a tree that is described by the vertical plane enclosing the outermost branches of the tree.



Exemption Letter means a letter issued by the City of Dunnellon, which authorizes clearing of protected trees within a defined exemption area.

Forestry consultant means a professional certified by the Society of American Foresters or other nationally recognized organizations granting certification in forestry.

Hat-rack or hat-racking means a severe form of pruning that removes all but the trunk and largest branches, often resulting in death of the tree.

Heritage trees are trees defined by resolution of the City Council as native trees, twenty-four (24) inches or more DBH, except for water oak, laurel oak, sweet gum, and loblolly pine, which must be thirty (30) inches or more to be defined as a heritage tree. Trees which would otherwise be defined as heritage trees which are diseased or dead shall not be considered heritage trees. Removal of heritage trees is allowed only upon application of a tree removal permit in all residential and nonresidential zoning districts.

Major site plan means any site plan other than a site plan for a single family unit or duplex.

New development means all property developed in all zoning districts after (effective date of this ordinance).

Prohibited tree means a tree identified as prohibited in Section 74-68.

Protected tree means any tree, other than a prohibited tree that is four (4) inches or more DBH.

Pruning means the cutting or removing of any part of the branching structure of a tree in either the crown, trunk, or root areas.

Remove or removal means to clear, cut down, damage, poison, or in any manner destroy or cause to be destroyed.

Stand-alone permit means a permit to remove a tree or trees, which removal is not associated with any site plan or plat approval.

Silviculture means the art, science, and practice of managing trees and the forest on bona fide agricultural land. Bona fide agricultural land has been classified as agricultural pursuant to §193.461, *Florida Statutes*.

Tree means any self-supporting woody plant which has at least one main trunk and normally grows to a minimum overall height of fifteen (15) feet. Palm trees are included in the definition of tree.

Tree removal means the felling and/or topping of trees, pruning of more than 30 percent of the crown of any tree, or otherwise causing damage to the branches, trunk, or root system of any tree to shorten its life. Determination of such damage can be provided by a forestry consultant, certified arborist, or other professionally qualified person.

Tree restoration fee means a fee established resolution of City Council, to be paid in lieu of tree replacement.

Understory or underbrush means any plant growing beneath the forest canopy including shrubs, seedlings, or saplings.

Wetlands mean those areas that are saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Wetlands are identified by the uniform methodology adopted in §373.421, *Florida Statutes*.

Sec. 74-62. Permit applicability and exemptions.¹

- (a) Except as provided below, a permit is required to clear land or otherwise remove any protected tree (as defined in this article) on property within the City. An applicant for an exemption letter may be the property owner, or an individual/company authorized to represent the property owner.
- (b) When required below, an applicant must obtain an exemption letter from the City. An applicant for an exemption letter may be the property owner, or an individual/company authorized to represent the property owner. To request an exemption, the applicant must sign the exemption application form provided by the City, and signing the form shall grant the City access for reasonable inspection during until such time as the exempted activity is

¹ Table 74-A is included herein as a shorthand guide to required approval authority for the types of tree removal applications specified within this ordinance. Table 74-A is for illustration purposes only and is not a part of this Ordinance. Accordingly, in case of a conflict between Table 74-A and any Section of this Ordinance or Code, the applicable Section of this Ordinance or Code shall apply. Table 74-A is attached hereto as Exhibit "B."

complete. The City will issue the exemption letter provided that the City determines that adequate documentation has been provided to demonstrate eligibility. The exemption letter shall be valid for 90 days. A fee shall not be charged for the exemption letter.

(c) Permitting exemptions.

- (1) Applications for permits for interior construction, renovation, or remodeling shall not require proof of compliance with this article. If the renovation or remodeling increases the footprint of the building such that removal of trees is required, a tree permit is required.
- (2) Licensed plant or tree nurseries or botanical gardens which contain plants and trees that are planted and grown for sale to the general public in the ordinary course of the licensed business or for public purposes are exempt from the provisions of this article.
- (3) The City of Dunnellon or its authorized agents are exempt from the provisions of this article for the purpose of removal of a tree on City-owned property that is dead or a hazard to the public.
- (4) Utility companies, the Florida Department of Transportation, Marion County, or their authorized agents are exempt from the provisions of this article for the purpose of removal of a tree that is a substantial hazard to overhead wires or for trimming that is necessary for establishment or maintenance of utility service. All such agencies shall provide notification to the City of Dunnellon prior to engaging in tree removal or maintenance, except in the case of a declared emergency. However, utility companies other than electrical utilities, the Florida Department of Transportation, Marion County, or their authorized agents are required to seek a permit for removal of a heritage tree that is a substantial hazard to overhead lines or for removal of trees identified in Section 74-75.
- (5) The removal of understory vegetation and the removal of trees less than four (4) inches DBH shall not require a tree removal permit.
- (6) The removal of a prohibited tree shall not require a tree removal permit, but shall require an exemption letter.
- (7) The removal of dead or diseased trees shall not require a removal permit, provided that the property owner obtains an exemption letter, notifies the City in advance of such removal and provides evidence of the condition of the tree. Acceptable evidence shall be a photographs or a written assessment of condition provided by a forestry consultant, certified arborist, or other professionally qualified person. Notification shall be on a form provided by the City and shall not require any fee. However, dead or diseased trees on vacant lots within the river protection corridor shall not be removed without a permit under the provisions of Section 74-75 of this article.
- (8) The provisions of this article shall not apply to activities directly resulting from, as well as occurring, during a declared federal, state, or local emergency.

- (9) Emergency removal: Where a tree presents a clear and immediate danger to a structure or person, a tree removal permit may be obtained after its removal; however photographic evidence shall be presented with the after the fact application to substantiate the immediate danger asserted. Emergency after the fact permits shall be processed in accordance with this article. Emergency permits that are determined by the City Administrator or designee to have not posed a clear and immediate danger are subject to penalties under this article. Emergency removal applications determined by the City Administrator or designee to have posed a clear and immediate danger are not subject to penalties.
- (10) Removal of a non-heritage tree located within ten feet (10') from an existing principal structure or pavement shall not require a tree removal permit, but shall require an exemption letter.
- (11) All trees planted specifically for silvicultural purposes shall be exempt from the provisions of this article provided the property owner can provide documentation to the City evidencing that:
 - a. The property is registered as a silvicultural site with the division of forestry; and
 - b. Trees of typical harvestable size and type exist on the property which are capable of being harvested for income and that the property owner has, or intends to, generate income from the harvested trees.
- (d) Regardless of the applicant's identity, the property owner, applicant (if not the property owner) and/or the individual/company conducting tree removal is responsible for complying with the requirements of this Ordinance and may be penalized accordingly for any infraction thereof.

Sec. 74-63. Tree removal application requirements for site plans and plats; procedures.

- (a) Every reasonable effort should be made to minimize tree removal. Tree preservation shall be an integral part of the site planning or subdivision design process. Tree preservation shall be conceived in a total pattern throughout the site, integrating the various elements of site design, preserving and enhancing the particular identity of the site.
- (b) The preservation of existing trees and vegetation for use as perimeter land use buffers shall be considered during the site design process and implemented to preserve habitat while lowering the cost of development.
- (c) A tree survey, grading plan, tree replacement plan if any, and an aerial map shall be submitted with any application for a site plan or a preliminary subdivision plat. Signing the application form shall grant the City access to the site for inspection during consideration of the permit application.
 - (1) A tree survey shall be prepared at the same scale as an associated site plan or preliminary subdivision plat.

- (2) The tree survey shall identify each protected tree and each prohibited tree, indicate the DBH, and identify the species. Where protected trees are located in a group or a cluster, the survey may identify the tree group rather than individual trees, including the number of trees, the range of DBH, and the species within the group.
 - (3) The tree survey shall identify protected trees to be retained, removed, and relocated and shall indicate that prohibited trees will be removed. When protected trees are proposed for relocation, the new location shall be indicated.
 - (4) The tree survey shall show the location of all proposed and existing structures, parking areas, driveways, and other planned improvements.
 - (5) A grading plan shall be provided to identify any proposed grade changes and methods to ensure that such changes will not adversely impact or endanger any protected trees that are proposed for retention.
 - (6) A tree replacement plan, if applicable, shall be provided, at the same scale as the tree survey, showing the location, size, and species of all proposed replacement trees. Such replacement trees shall comply with the requirements of this article. The replacement plan may be shown on the tree survey.
 - (7) The tree survey shall be sealed by a land surveyor, licensed in the State of Florida. The grading plan and any tree replacement plan shall be sealed by a landscape architect or civil engineer licensed in the State of Florida.
 - (8) An aerial map for parcels of two (2) or more acres shall be provided.
- (d) Where an agent is authorized to apply for a tree removal permit on behalf of the owner, a signed and notarized affidavit shall be provided on a form provided by the City, to authorize the agent.
- (e) Removal of any non-exempt protected tree must be approved as part of the site plan or plat approval process.
- (1) Where an application for site plan or preliminary subdivision plat is submitted, a separate tree permit application is not required. The preservation, relocation, replanting, or removal of protected trees shall be considered as part of the site plan or preliminary subdivision plat review and approval process. Tree removal shall not be authorized prior to the final approval of a site plan or preliminary subdivision plat.
 - (2) No authorization shall be granted to remove a protected tree where the developer or property owner has failed to take reasonable measures to design and locate the proposed improvements such that the minimum required number of protected trees is maintained.

- (3) For site plans for single family units or duplexes, removal of any protected trees shall be reviewed by the City Administrator or designee who may approve, deny, or approve with conditions as part of the site plan process.
- (4) For major site plans and plats, removal of any protected trees, unless exempt as set forth in Section 74-62, shall be reviewed by the Planning Commission as part of the site plan review process. The City Administrator or designee shall prepare a staff report for the Planning Commission regarding the proposed tree removal. The Planning Commission shall make recommendation to approve, deny, or approve with conditions to the City Council. The City Council may approve, deny, or approve with conditions during the major site plan or plat review process.

(f) The recommendation to deny or a denial of any request for tree removal by the City Administrator or designee, Planning Commission, or City Council shall be in writing, citing to the Section of this article as the reason for the denial.

Sec. 74-64. Stand-alone permit requirements not associated with site plan or plat approval; procedures.

- (a) An application for a stand-alone tree removal permit shall include the following:
 - (1) A completed application on a form provided by the City. Signing the form shall grant access to the site for inspection during consideration of the permit application and subsequent to permit issuance for determination of compliance with the permit.
 - (2) Payment of the applicable permit fee.
 - (3) Legal description and/or parcel identification number associated with of the property.
 - (4) Name, phone number, and address of the property owner. If the property owner does not have local contact information, a local agent is required.
 - (5) Where an agent is authorized to apply for a tree removal permit on behalf of the owner, a signed and notarized affidavit shall be provided, on a form provided by the City, to authorize the agent.
 - (6) A tree survey or a sketch which is of a scale that will be directed by the City Administrator or designee. The tree survey or sketch shall identify each protected tree and each prohibited tree, indicate the DBH, and identify the species. Where protected trees are located in a group or a cluster, the survey or sketch may identify the tree group rather than individual trees, including the number of trees, the range of DBH, and the species within the group.

- (7) The tree survey or sketch shall identify protected trees to be retained, removed, and relocated and shall indicate that prohibited trees will be removed. When protected trees are proposed for relocation, the new location shall be indicated.
 - (8) The tree survey or sketch shall show the location of all proposed or existing structures, parking areas, driveways, and other planned improvements.
 - (9) Photographs of trees proposed to be removed shall be provided.
 - (10) For parcels of two (2) or more acres, an aerial map shall be provided. .
- (b) An application for a stand-alone tree removal permit shall be processed as follows:
- (1) The City Administrator or designee shall determine that the application is complete and contains all required submittals. An incomplete application shall not be processed for review. Where an application is incomplete, the City Administrator, or designee, shall notify the applicant of missing information within eight (8) working days. If the missing information is not provided to the City within thirty (30) working days, the application shall be deemed withdrawn and returned to the applicant. An extension of the thirty (30) day time limit may be granted by the City Administrator or designee upon written request from the applicant. No more than one thirty (30) day extension shall be granted.
 - (2) The City Administrator or designee shall review a complete application and approve the application when it fully complies with the standards and criteria of this article. An application that does not fully comply with the standards and criteria of this article shall be denied, and the applicant shall be notified of the denial in writing, citing to the Section of this article as the reason for the denial. If denied, the applicant has the right to appeal the administrative interpretation to the Planning Commission pursuant to Section 74-73 below.
 - (3) A stand-alone tree removal permit shall be valid for a period of up to six (6) months from the date of issuance. The permit may be renewed one time for a period not to exceed six (6) months.
 - (4) A stand-alone tree removal permit shall be valid only so long as any conditions of approval continue to be met. Failure to meet permit conditions will require that the Code Enforcement Officer issue a Stop Work Order and rescind the permit.

Sec. 74-65. Criteria for removal or relocation of a protected tree.

- (a) Removal or relocation of a protected tree may be approved by the City Administrator or designee, Planning Commission, or City Council based upon one of the following findings:

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- (1) The tree has been weakened by disease, age, storm, fire or other injury; or
 - (2) The tree has severe structural defects that pose a clear and obvious safety hazard to people, nearby trees, structures, or objects on a lot or parcel of land; or
 - (3) The tree contains a disease or infestation that could spread to other trees; or
 - (4) The tree prevents the reasonable development of the site, including the installation of solar energy equipment, clothesline, or other energy device, or the installation or replacement of utility lines; or
 - (5) The tree is causing or is likely to cause (as evidenced by competent substantial evidence) structural damage or problems to buildings or underground facilities due to excessive root or trunk growth, or soil expansion and contraction caused by uneven water uptake. Ordinary small cracks or uplifts in pavement, sidewalks, and non-occupied structures that are typically caused by settling shall not be considered a safety hazard; or
 - (6) The tree poses a clear and obvious safety hazard to pedestrian or vehicular traffic or threatens to cause disruption to public services or a significant obstacle to accessing and utilizing public easements and rights-of-way; or
 - (7) The extent to which tree removal is likely to result in damage to the property of other owners, public or private, including damage to lakes, ponds, streams, or rivers through runoff or erosion.
- (b) Consideration may also be given, as applicable to:
- (1) Any proposed landscaping including plans whereby the applicant has planted or will plant trees to replace those that are proposed to be cleared; or
 - (2) Topography of the land and the effect of tree removal on erosion, soil retention and the diversion or increased flow of surface water; or
 - (3) Good forestry practices, such as the number of healthy trees that a given parcel of land will reasonably support and the proven techniques that sustain healthy trees; or
 - (4) Certain protected trees within clusters may be removed if there is a need to relieve overcrowding between dissimilar tree species or tree thinning as part of an approved fire mitigation plan; or
 - (5) Necessity to remove trees in order to construct approved and permitted improvements to allow economic enjoyment of the property, including:
 - a. Need for access around a proposed structure for construction equipment (maximum of ten (10) feet).
 - b. Need for access to the building site for construction equipment.
 - c. Essential grade changes.
 - d. Need for locating street or road rights-of-way, utilities, drainage ways, as well as the need to provide reasonable use and property access; or

- (6) The extent of any damage or demonstrated hardship which would result to the applicant from a denial of the requested permit; or
- (7) The species and size of the trees proposed for removal; or
- (8) Preservation of the next generation of trees.

Sec. 74-66. Standards for preserving, relocating, and replacing trees.

- (a) All new development with fewer than sixteen (16) protected trees per acre prior to construction shall, to the greatest extent possible, preserve these protected trees.
- (b) Applicants are strongly encouraged to preserve as much of the existing protected trees as possible. By saving protected trees, rather than planting new ones, applicants can achieve the minimum planting requirements in a more efficient and economical manner.
- (c) Where the footprint of a proposed building cannot be reasonably shifted on the lot or located in compliance with the applicable zoning standards, protected trees may be relocated to another portion of the lot or parcel. Where preservation of protected trees is not possible due to physical limitations of the land or where relocation would result in conditions where the relocated trees could not thrive, removal may be authorized on condition that a replacement tree be planted on the property.
- (d) Developments shall be designed to the extent reasonably possible to protect existing trees and their tree protection zone from stormwater facilities, drainage lines, utilities, or grade changes, building footprints, parking areas, drives, and walkways.
- (e) Subdivision plats shall shift lot lines to minimize placing heritage trees in the buildable area of the lot if practicable.
- (f) As a condition for the removal of a non-exempt protected tree, the applicant shall be required to relocate the tree or replace each removed non-exempt protected tree with a permissible tree as set forth in Section 74-68, of the following sizes and heights:
 - a. Protected trees: Minimum replacement tree size: 2” caliper, 7’ – 8’ high.
 - b. Heritage trees: Minimum replacement tree size: 4” caliper.
- (g) When a prohibited tree is removed, no replacement tree is required to be planted.
- (h) Where trees are authorized for removal on a parcel where a certificate of occupancy will not be issued, replacement trees shall be planted not later than six (6) months following issuance of the tree removal permit.
- (i) Where a delay in planting replacement trees is necessary due to the growing season, the applicant shall provide a performance bond acceptable to the City guaranteeing that replacement trees will be planted not later than six months following issuance of the certificate of occupancy.

- (j) The City Administrator or designee may offer a choice to an applicant, especially when space limitations or other conditions exist, to make payment into the tree restoration trust fund in accordance with Section 74-71 in lieu of replacing trees to be removed.

Sec. 74-67. Credit for preservation of existing trees.

- (a) For new development, credit may be granted for the preservation of existing protected trees based upon the size of the protected trees. Such credit is intended to provide an incentive for preserving larger trees when it is necessary to remove trees in order to allow development of a lot or parcel. This Section describes the method of determining credit for retaining trees. Credit is not based on an exact inch-for-inch calculation, but provides a table to assign a number of trees as credit for the preservation of a tree within a size range.
 - (1) Credit shall not be granted for any tree that is not adequately protected during construction and development of the lot or parcel or for any tree that is not healthy and thriving at the time that the certificate of occupancy is issued. Tree protection requirements during construction are set forth in Section 74-69.
 - (2) Credit shall not be granted for any prohibited tree.
 - (3) Credit shall not be granted for any tree with less than four (4) inches DBH.
- (b) Credit, when granted, shall be based on the following standards:

DBH	Number of Trees Credited	-----
36 inches or greater	7	-----
30 to 35 inches	6	-----
26 to 29 inches	5	-----
20 to 25 inches	4	-----
13 to 19 inches	3	-----
8 to 12 inches	2	-----
4 to 7 inches	1	-----

Sec. 74-68. Permissible and prohibited trees.

The following table identifies permissible trees and trees that are prohibited within the City. The City may consider other trees, where the applicant provides evidence that the proposed trees are appropriate and expected to thrive in the Dunnellon area. Evidence may include written information from the Institute of Food and Agricultural Sciences at the University of Florida, the Florida Department of Agriculture and Consumer Services or the Certified Arborist approved by the City.

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Permissible Trees	Prohibited Trees
American Elm	Australian Pine
American Holly	Black Locust
American Hornbeam	Brazilian Pepper
Bald Cypress	Camphor Tree
Bluejack Oak	Carrotwood
Cabbage Palm	Chinaberry
Carolina Basswood	Chinese Privet
Chinese / Drake Elm	Chinese Tallow
Date Palm	Honey Locust
Florida Basswood	Melaleuca/Punk Tree
Hophornbeam	Paper Mulberry
Red Oak	Silk Oak
Live Oak	
Loblolly Bay	
Longleaf Pine	
Persimmon	
Pignut Hickory	
Pindo Palm	
Pond Cypress	
Red bay	
Red Maple	
River Birch	
Sabal Palm	
Slash Pine	
Southern Magnolia	
Sugarberry	
Sugar Maple	
Sweet Bay Magnolia	
Sweet Gum	
Turkey Oak	
Water Tupelo	
White Ash	

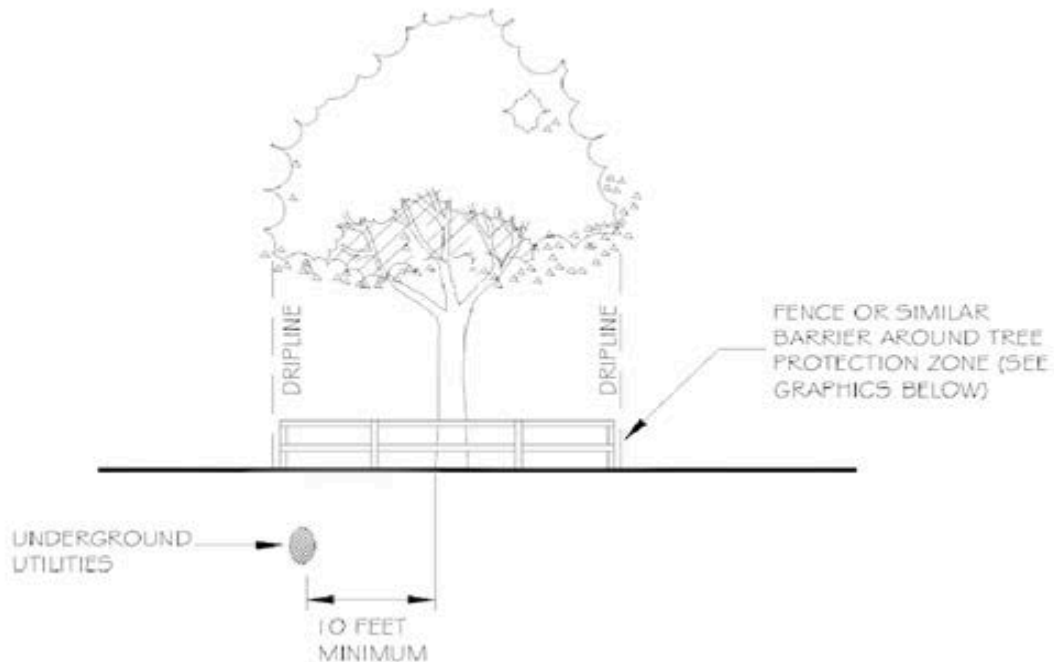
Sec. 74-69. Standards for protecting trees during development and construction activities.

- (a) In conjunction with any development, building, or land clearing it shall be unlawful for any person to cause, authorize, assist, or permit the removal of or damage to any protected

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tree; or to root rake, grade, or permit the movement or storage of equipment, material, debris or fill within the drip line of any protected tree which is not authorized or approved for removal in accordance with the provisions of this Section. Protected trees are those trees identified on the required tree survey, pursuant to the standards of this article.

- (b) Protective measures are required during site development in order to assure the health and survival of protected trees. Protective measures are required to avoid:
 - (1) Mechanical injuries to roots, trunk, and branches;
 - (2) Injuries by chemical poisoning;
 - (3) Injuries by grade changes;
 - (4) Injuries by excavations; and
 - (5) Injuries by paving.
- (c) A circular tree protection zone shall be established around each protected tree at 1.25 times the drip line of the tree, or as close as practicable.
- (d) All development activities shall be prohibited within the tree protection zone, including any construction of buildings, structures, paving surfaces, stormwater retention or detention ponds, and temporary construction activities, including all digging, storage of construction material, and parking of construction vehicles. Hand pruning is authorized to remove understory vegetation.
- (e) Prior to the commencement of construction, the tree protection zone shall be enclosed within a fence or similar barrier as follows:
 - (1) Wooden posts, at least 1.5 by 3.5 inches, shall be implanted in the ground deep enough to be stable and with at least three (3) feet visible above ground.
 - (2) The wooden posts shall be placed not more than six (6) feet apart, and shall be enclosed with orange safety fence.
- (f) Permitted activities within the tree protection zone:
 - (1) Excavating or trenching by utilities service providers for installation of underground utilities. Underground utilities shall be no closer to the tree than ten (10) feet.
 - (2) Placement of sod or other ground covers, and the preparation of the ground surface for such covers.



Sec. 74-70. Maintenance of replaced or relocated trees after site plan or plat approval.

All trees planted in compliance with an approved site plan or plat or as mitigation for the removal of protected trees shall be maintained in good health for a period of two years after construction approval. Within six months of a determination by the City Administrator or designee that a replaced or relocated tree is dead or severely damaged or diseased, the tree shall be replaced by the owner or applicant in accordance with the standards in Sec. 74-64 (stand-alone).

Sec. 74-71. Tree restoration trust fund.

- (a) When it is impossible or impracticable for the applicant to meet the requirements for tree density and/or replacement on-site due to site conditions or configuration, the City Administrator or designee may offer the option to pay fees of equivalent value into the tree restoration trust fund or plant the trees off-site upon approval of a suitable site or sites by the City.
- (b) The tree fund shall be a separate account set up and shown in City financial records in which all receipts are detailed. All monetary contributions paid to the tree fund pursuant to this Section shall be used exclusively for the planting or replanting of mitigation trees, installation and establishment of shade trees, the protection and conservation of existing trees where appropriate, and installation and maintenance of irrigation systems for trees on public land.
- (c) Valuation of contributions to the tree fund shall be:

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- (1) For trees located outside of the river corridor protection areas designated under Chapter 78 of this Code, \$250.00 for removal of each non-heritage protected tree and \$500.00 for removal of each heritage tree.
 - (2) For trees located within river corridor protection areas designated under Chapter 78 of this Code, \$250.00 for removal of protected trees 4” – 8” DBH and \$500.00 for trees larger than 8” DBH.
- (d) An applicant making a payment to the tree fund is responsible for paying the full amount to the City prior to issuance of a certificate of occupancy for the development.
 - (e) All trees planted utilizing tree trust fund revenues shall have adequate irrigation.
 - (f) The City Administrator or designee will oversee the tree restoration trust fund.

Sec. 74-72. Trees in right of way.

- (a) *Street trees in new development.* Street trees shall be installed in all new development. Selection and installation of trees shall comply with the specifications set forth in this article and the additional standards within this Section. Street trees shall be located within five (5) feet of the edge of pavement and within the right-of-way. One (1) tree shall be planted for each fifty (50) linear feet of street right-of-way on each side of the street. Existing trees may be counted toward this requirement if such trees are healthy and are permissible as set forth in Section 74-68. Where overhead utilities are located along the street right-of-way, only understory trees shall be installed. The types of trees to be planted as street trees shall be recommended by City Staff.
- (b) *Planting trees.* No tree shall be planted within any right-of-way of the City without first obtaining a permit from the City. There will be no charge for such a permit. The permittee shall submit with the application for permit a sketch showing where the tree will be planted, the spacing between trees or plants, if applicable, and the species proposed to be planted. The City Administrator or designee shall approve of such plan before the permit is granted.
- (c) *Maintaining trees.* Upkeep, trim, and maintenance of all trees, shrubs, or plants on any right-of-way which abut private property shall be the responsibility of the abutting private property owner between the private property line and the curb of the street, except that the City shall be responsible

for trimming and maintaining portions of trees on the street side so as to allow clearance for vehicles.
- (d) When any maintenance or trimming of trees in any right-of-way is necessary to afford clearance for wires or cables, it shall be the responsibility of a public utility company to trim and maintain said trees after seeking a permit for such trimming and maintenance from the City. It shall be unlawful for any person to maintain any tree, shrub or plant within any right-of-way of the City in such a manner that will damage or constitute a hazard to any street, sidewalk, curb, driveway, drainage, water line, sewer line or any other public utility.

- (e) *Removing trees.* No tree shall be removed from any public right-of-way without first obtaining a tree removal permit. The City Administrator or designee may, in some instances, recommend that the City share the costs for removal of said trees.
- (f) *Removing fallen trees.* The City shall be responsible for removing any fallen tree planted in the right-of-way upon being notified of such fallen tree. A tree planted on private property which falls on any right-of-way shall be removed by the property owner within a reasonable period of time, not to exceed 60 days, or sooner if the City deems necessary to protect public safety. If said fallen tree is not removed within the designated periods of time, the City may remove the fallen tree and assess costs for removal to the property owner.

Sec. 74-73. Appeals.

- (a) Any person adversely affected by an administrative interpretation of the City Administrator or designee may appeal that interpretation to the Planning Commission by filing a written notice of appeal of said interpretation within thirty (30) calendar days of said interpretation. The Planning Commission shall hear and decide said appeal at its next available meeting date. The applicant shall be sent via U.S. Mail a notice at least fifteen (15) days prior to the hearing of the time, date, and place when the Planning Commission will hear the appeal.
- (b) Any person adversely affected by a decision of the Planning Commission under this article may appeal that decision to the City Council by filing a written notice of appeal of the decision within thirty (30) calendar days of said decision.
- (c) The City Council shall hear and decide appeals under this article at its next available meeting date. The applicant shall be sent via U.S. Mail a notice at least fifteen (15) days prior to the hearing of the time, date, and place when the City Council will hear the appeal.
- (d) All appeal decisions denying a tree removal permit shall be given to the applicant in writing, citing to the Section of this article as the reason for the denial.

Sec. 74-74. Violations and enforcement.

- (a) *Violators.* For purposes of this Section, “violators” means tenants in possession of property, landlords of property, property owners, and persons or entities hired by such tenants, landlords, or property owners to remove or have removed trees on the property, or to replace or have replaced trees on the property. Entities hired by tenants, landlords, or property owners shall be jointly and severally responsible in the event of a violation under this article.
- (b) *Enforcement.* The City may enforce the provisions of this article by any lawful means including, but not limited to, issuing a civil citation, bringing charges before the City’s special magistrate, and seeking injunctive and equitable relief.
- (c) *Penalties.* In addition to all other remedies set forth in this article, including paying any after the fact tree removal permit fee set by resolution of City Council, one or more of the following fines may apply to violations of this article:

- (1) *Removal of a tree without a permit:* Fine of up to two hundred fifty dollars (\$250.00) per tree.
 - (2) *Removal of a heritage tree without a permit:* Fine of up to five hundred dollars (\$500.00) per tree.
 - (3) *Any other violation of this chapter:* Fine as provided by law or the City's Code.
- (d) In determining the amount of the fine under subsection (c) above, the following factors shall be considered:
- (1) The gravity of the violation.
 - (2) Any actions taken by the violator to correct the violation.
 - (3) Any previous violations of this article committed by the violator.
 - (4) The number and size of the trees removed, if any.
 - (5) Whether the violation is irreparable or irreversible in nature.
 - (6) The remedial actions offered by the violator to restore the property consistent with this article.
- (e) *Replacement of trees after violation.* In addition to the fines set forth in this Section, the following shall be required:
- (1) Violators must replace trees removed without a permit within 90 days in accordance with this article.
 - (2) Non-heritage trees removed without a permit must be replaced with a tree of comparable type with one tree for every tree removed without a permit. Each replacement tree shall be planted in accordance with the requirements set in sec. 74-66(f) of this ordinance. The violator shall guarantee survival of replaced trees for two years from the date of planting.
 - (3) Heritage trees removed without a permit must be replaced with a tree of comparable type with four trees for every one tree removed without a permit. Each replacement tree shall be planted in accordance with the requirements set in sec. 74-66(f) of this ordinance . The violator shall guarantee survival of replaced trees for two years from the date of planting.
 - (4) When space limitations or other conditions exist, the violator shall be required to make payment into the tree restoration trust fund within 90 days in accordance with this article in lieu of replacing trees to be removed.
 - (5) Violators who timely fail to replace trees or make payment into the tree restoration trust fund shall be considered guilty of a separate violation, and a fine not to exceed

\$100.00 per day shall be imposed for each day the violation exists, until the required replacement trees are installed or payment is made into the tree restoration trust fund. Upon request of the violator, the City Administrator or designee may extend the replacement time period for thirty (30), sixty (60), or ninety (90) days upon submission of a written request of the violator detailing the reasons for the extension prior to the expiration of the original ninety (90) days.

- (6) When applicable, a certificate of occupancy will not be granted for property where unlawful tree removal or has occurred until a tree replacement plan has been implemented.

Sec. 74-75. Standards for tree removal in designated river protection corridors.

(a) The City hereby declares that special circumstances exist with regard to Pond Cypress and Bald Cypress trees, including their knees, located along the shoreline within river corridor protection areas designated under Chapter 78 of this Code.

- (1) All Pond Cypress and Bald Cypress trees, and their knees, regardless of size, are protected.
- (2) No such trees or cypress knees shall be removed unless a tree removal permit has been issued in compliance with the requirements of the standards set forth in Section 74-75(c) below.

(b) The City hereby declares that special circumstances exist with regard to trees equal to four (4) inches DBH or greater, other than prohibited trees as defined in Section 74-68, which are located along the shoreline within river corridor protection areas designated under Chapter 78 of this Code.

- (1) All trees equal to four (4) inches DBH or greater within the river corridor protection areas designated under Chapter 78 of this Code, other than prohibited trees as defined in Section 74-68, are protected.
- (2) No such trees or cypress knees shall be removed unless a tree removal permit has been issued in compliance with the requirements of this article and the standards set forth in this Section. The removal of trees to allow river front property access to navigable waters shall be in accordance with Chapter 78 of this Code.

(c) Stand-alone tree removal shall be authorized within the river corridor protection areas only in compliance with the following:

- (1) Vacant Lots. No stand-alone tree removal of (i) Pond Cypress and Bald Cypress trees, and their knees, regardless of size, or (ii) non prohibited trees, including dead or diseased trees, equal to four (4) inches DBH or greater, is permitted, unless they present an imminent threat to public safety or present a clear and documented danger to the health and survival of trees or structures, objects, or persons in the immediate surrounding area. Evidence of condition is required. Acceptable evidence shall be a written assessment of condition

provided by a certified arborist.

- (2) Occupied Lots. Stand-alone tree removal of (i) Pond Cypress and Bald Cypress trees, and their knees, regardless of size, or (ii) non prohibited trees equal to four (4) inches DBH or greater, is only allowed when:
 - a. a tree is diseased, dead, or has been weakened by age, storm, fire, or other injury. Evidence of condition is required. Acceptable evidence shall be a written assessment of condition provided by a certified arborist. Diseased trees shall only be removed when the disease presents a clear and documented danger to the health and survival of trees or structures, objects, persons, and/or the public health, safety, and welfare in the immediately surrounding area; or
 - b. the tree poses an imminent threat and removal is required to protect the health and survival of trees or structures, objects, persons, and/or the public health, safety, and welfare in the immediately surrounding area. Such removal shall be the minimum necessary to accomplish the purposes stated herein.
- (3) Replacement of trees authorized for removal under this Section shall be replaced on 1:1 basis, meaning that one (1) inches DBH shall be required for each one (1) inch DBH of removed trees. Replacement trees shall be a minimum of four (4) inches DBH. The City Administrator or designee may offer a choice to an applicant, especially when space limitations or other conditions exist, to make payment into the tree restoration trust fund in accordance with Section 74-71 in lieu of replacing trees to be removed.
- (d) The approval process for tree removal with new construction, remodeling, renovations, accessory structures, and/or amenities within the river corridor protection area shall comply with Chapter 78 of this Code.
- (e) Access.
 - (1) Private Shoreline Access. Whenever tree removal is required in order to achieve private shoreline access to the shoreline the standards set in Section 78-73 of this Code shall apply. The path shall not be located in such a manner as to require removal of Pond Cypress, Bald Cypress, or Heritage trees, unless it poses an undue hardship to relocate the path, in which case the applicant shall seek a variance before the Planning Commission under Section 94-37 of the City's Land Development Regulations.
 - (2) Public Access to Shoreline, River, Public Recreation Area, or Trail Systems. Whenever tree removal is required in order to achieve public access to the shoreline, river, public recreation area, or trail systems, the standards set in Section 78-73 of this Code shall apply. Additionally, any path built shall not exceed the minimum width necessary to comply with Americans with Disabilities Act Regulations. A boardwalk

shall be provided in order to minimize the potential for erosion. The path shall not be located in such a manner as to require removal of Pond Cypress, Bald Cypress, or Heritage trees, unless it poses an undue hardship to relocate the path, in which case the applicant shall seek a variance before the Planning Commission under Section 94-37 of the City's Land Development Regulations.

SECTION 4. Severability. The provisions of this Ordinance are declared to be severable, and if any Section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining Sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5. Conflicts. Any Ordinance in conflict with this Ordinance is hereby repealed.

SECTION 6. Codification. It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Dunnellon; that the Sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

SECTION 7. Effective Date. This Ordinance shall be effective immediately upon adoption at the second public hearing.

Upon motion duly made and carried, the foregoing Ordinance was approved upon the first reading/public hearing on the 12th day of March 2018.

Upon motion duly made and carried, the foregoing Ordinance was approved and passed upon the second and final reading and public hearing on the 9th day of April 2018.

Ordinance Posted on the City's website on March 9, 2018. Public hearing advertised on the City's website on March 9, 2018 and advertised in the Riverland News on March 29, 2018.

ATTEST:

CITY OF DUNNELLO

Amanda L. Roberts, CMC
City Clerk

Walter Green, Mayor

Approved as to Form:

Andrew J. Hand, City Attorney

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I HEREBY CERTIFY that copies of the foregoing Ordinance were posted at City Hall, the Chamber of Commerce, and the Dunnellon Library, in the City of Dunnellon, Florida, and on the City's Official Website this 9th day of March 2018.

Amanda Roberts
City Clerk

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Exhibit "A"

~~DIVISION 4. TREE BOARD~~

~~Sec. 2-233. Established; membership; vacancies; removal from office.~~

- ~~(a) There is hereby created a Tree Board of the City of Dunnellon, which shall consist of three members, plus two alternate members, appointed by the city council.~~
- ~~(b) Each board member shall serve a term of three years, or until his or her successor is appointed. Members may be re-appointed for subsequent terms.~~
- ~~(c) The initial appointments to the tree board shall be as follows:
 - ~~(1) One member shall be appointed for a term of one year.~~
 - ~~(2) One member shall be appointed for a term of two years.~~
 - ~~(3) One member shall be appointed for a term of three years.~~~~
- ~~(d) Alternate membership. The appointment of the two alternate members shall be for three years.~~
- ~~(e) Failure to attend meetings. If any member of the tree board fails to attend three consecutive regularly scheduled meetings without cause and without prior approval of the chair, the seat occupied by such board member shall be declared vacant. The tree board shall certify the vacancy to the city council.~~
- ~~(f) In the event that the tree board certifies to city council that a member seat is vacant, the city council shall at their next available meeting appoint a person to fill the unexpired term of the vacant seat. Priority shall be given to the alternate member with the most seniority to fill the unexpired term of the vacant seat. The city clerk shall advertise for a period of 30 days a vacancy of an alternate position or board seat, unless applications of qualified persons are on file from which to make a selection. Thereafter, the city council shall appoint an applicant to fill the unexpired term of the vacant alternate or board seat.~~
- ~~(g) In the event any voting member is absent from a meeting, the voting seat or seats shall be filled by alternate members in order of seniority.~~
- ~~(h) The city council may remove any member of the tree board for cause, after written notice and public hearing. In cases where the tree board certifies a seat as being vacant under subsection (e) above, no prior written notice and public hearing is required.~~

~~Sec. 2-234. Qualification of members.~~

~~Appointment of tree board members shall be made on the basis of experience or interest in the fields of forestry, landscape architecture, nurseryman, master gardening, certified arborists, licensed landscape contracting~~

~~Sec. 2-235. Meetings.~~

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- ~~(a) At the beginning of the first meeting of a calendar year, the tree board shall elect from among its members a vice chair. The vice chair shall fulfill all duties delegated to that position by the board and shall assume the chairmanship of the board or commission at the beginning of the next calendar year. The presence of three shall constitute a quorum necessary to take action.~~
- ~~(b) Alternate members of the tree board shall have authority to engage in the debate of matters before the board, but are only authorized to vote when filling the seat of an absent voting member.~~
- ~~(c) In the event any voting member is absent from a meeting, the voting seat or seats shall be filled by alternate members in order of seniority.~~
- ~~(d) The chairman of the board may call for a meeting of the board to consider a pending tree removal permit application, to consider policy or regulatory recommendations to city council, or for any special circumstance.~~
- ~~(e) The board shall meet as often as is necessary to consider pending tree removal permit applications, and to develop policy and regulatory recommendations to the city council related to tree protection and preservation.~~
- ~~(f) The presence of two (2) board members at a meeting, which may include alternate members filling in for absent members, shall constitute a quorum.~~

~~Sec. 2-236. Duties and responsibilities.~~

- ~~(a) The board shall review all applications for tree removal permits associated with site plans and preliminary plats and make recommendation to approve, deny, or approve with conditions to the city council.~~
- ~~(b) The board shall review all applications for tree removal permits upon commercial property greater than one acre in size and make recommendation to approve, deny, or approve with conditions to the city council.~~
- ~~(c) The board shall review and make recommendation on all applications for tree removal permits upon waterfront lands, wetlands, or conservation lands.~~
- ~~(d) The board shall review all applications for tree removal for harvesting trees from a bona fide agricultural land pursuant to F.S. 193.61 and make recommendation to approve, deny, or approve with conditions to the city council.~~
- ~~(e) The board shall develop a written plan for the care, preservation, pruning, planting, replanting, and removal of trees on property owned by the city.~~
- ~~(f) The board shall develop recommendations to the city council related to establishing canopy roads, arbor streets, naturescape, Tree City USA, and related programs.~~
- ~~(g) Any other duties which the city council may assign to the tree board.~~

Exhibit "B"
Table 74-A

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TABLE 74-A

Dunnellon Tree Code **X** – Indicates Final Authority **R** - Indicates Review Authority

Application Review Requirements

Requirement	Section	Scope	City Admin or designee	Planning Comm	City Council
No exemption letter	74-62	1) <u>Maintenance activities</u> - underbrush and trees 4" DBH or smaller 2) Licensed plant or tree nursery - on their own property 3) City of Dunnellon or authorized agents 4) Utility companies, FDOT, Marion County, or authorized agents - with notice 5) Declared Emergency (Federal, State, and Local) 6) Silviculture purposes - property must be registered	No review		
Exemption letter (no fee)	74-62	1) Removal of a prohibited tree 2) Removal of a dead, substantially damaged, or diseased tree - not in RCPA 3) Removal of non-heritage tree within 10' of principal structure or driveway	X		
Tree Permit (Applicable Fee)	74-63 74-64	1) Tree removal for any Residential or Commercial property not meeting conditions specified in 74-62 2) Tree removal for expansion of the structure, accessory use, or impervious surface of the property 3) Tree removal associated with any major site plan, preliminary plat, or final plat submission	X X		R X

Note: This Table is included herein as a shorthand guide to required approval authority for the types of tree removal applications specified within this Ordinance. **Table 74-A is for illustration purposes only and is not a part of this Ordinance. Accordingly, in case of a conflict between Table 74-A and any Section of this Ordinance or Code, the applicable Section of this Ordinance or Code shall apply.**