ORDINANCE NO. 12-151

AN ORDINANCE OF THE TOWN OF MIAMI LAKES PROVIDING FOR TREE REMOVAL PERMIT APPLICATIONS, REQUIREMENTS, REVIEW, FEES, AND CRITERIA FOR REMOVAL; PROVIDING FOR TREE REPLACEMENT AND PROTECTION, APPEAL CRITERIA, FINES, ENFORCEMENT, PENALTIES AND REMEDIES; PROVIDING FOR SEVERABILITY, PROVIDING FOR CONFLICTS, PROVIDING FOR INCLUSION IN THE TOWN'S CODE, PROVIDING FOR EFFECTIVE DATE

WHEREAS, it is the intent of the Town of Miami Lakes to conserve, promote, protect, restore and improve the Tree canopy of the Town; and

WHEREAS, the Town of Miami lakes currently coordinates with Miami Dade County for the Tree Removal permitting; and

WHEREAS, the Town of Miami Lakes has implemented a multi-year inventory and replacement program to maintain and enhance the Tree canopy within the Town; and

WHEREAS, the protection and enhancement of the existing canopy is consistent with the Town's adopted comprehensive plan; and

WHEREAS, the Town Council deems it to be in the best interest of the Town of Miami Lakes to adopt the following amendments of the Town's Land Development Code and establish and enforce its own Tree protection ordinance in lieu of the provisions within Miami-Dade County Ordinance Number 89-8.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF MIAMI LAKES, FLORIDA:

Section 1. **Recitals Adopted.** That each of the above stated recitals are hereby adopted and confirmed.

Section 2. **Adoption.** The following shall be adopted as the Town of Miami Lakes Tree Ordinance, to be placed into the Town Code as Chapter 42.

Section A. Intent and Purpose.

The intent of this ordinance is to protect, preserve and improve the Tree canopy within the Town of Miami Lakes ("The Town") by regulating the removal, relocation and trimming of Trees. The purpose of this ordinance is to assure that the design and construction of all Development Activity is executed in a manner consistent with the preservation of existing Trees to the greatest extent possible.

Section B. Definitions.

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

Applicant: A person who is the Owner or authorized agent of a property authorized to apply for a building permit.

Certified Arborist: A person who is certified by the International Society of Arboriculture (ISA) and is an individual engaged in the profession of arboriculture who, through experience, education, and related training, possesses the competence to provide for or supervise the management of Trees and other woody plants.

Certificate of Approval: A written document permitting Tree Removal or Development Activity within an area identified.

Controlled Plant Species: Plant species as defined pursuant to Section 18A-3 of the Miami-Dade County Code and listed in the Miami-Dade County Landscape Manual as amended from time to time which tend to become nuisances because of their ability to invade proximal native plant communities or native habitats, but which, if located and cultivated properly may be useful or functional as elements of landscape design. Controlled plant species shall not be planted within 500 feet of native plant communities including but not limited to County–designated Natural Forest Communities, Town-designated environmental preservation areas and Town–designated environmentally significant features.

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

Dead Tree: A Tree which has no vital functions.

Department: The Department(s) of the Town in charge of enforcing activities related to the enforcement of this Ordinance as designated by the Town Manager or his/her designee.

Development Activity: The carrying out of any building construction including without limitation building addition modifications or demolition or making any material alteration to the use or exterior appearance of any structure or site. Including the removal of Trees

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

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

Effectively Destroy: The girdling, or damaging of a tree's trunk, branch or root system or cutting, pruning or trimming not performed in accordance with the most recent American National Standards (ANSI) A-300 Standard Practices for Tree Care Operations.

Environmental Preservation Area(s): Geographical areas, parcels, or corridors which have been or may be identified, and established by the Town Council as significant, natural, or man-made attributes in need of preservation and control because of their educational, economic, ecological, and environmental importance to the welfare of the general public and the Town as a whole. These areas are identified in Exhibit "A".

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

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

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

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

Hat Racking (Topping): The reduction of Tree size using inter-nodal cuts without regard to Tree health or structural integrity.

Hazardous Tree: A Tree with the potential to fail or fall in an environment that may contribute to that failure as determined by the Town's arborist, and such that a person or object could be injured or damaged by that failure.

Mass Replanting/Reforestation: Any removal, planting, and/or replacement project exceeding 25 or more Trees.

Miami-Dade County Landscape Manual: Refers to the Landscape Manual issued by Miami Dade County inclusive of all amendments.

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

Natural forest community (NFC): All stands of trees, (including their associated understory) which were designated as Natural Forest Communities on the Miami-Dade County Natural Forest Community Maps and approved by the Board of County Commissioners pursuant to Resolution. This shall include all trees and other vegetation within county designated natural forest community boundaries as modified from time to time by Miami-Dade County. Unless specifically exempt from a permit issued by Miami-Dade County, no work including removal of trees or other vegetation shall occur within natural forest communities without a permit issued by Miami-Dade County. Within the municipal boundaries of Miami Lakes, two county-designated natural forest communities existed at the time this Town ordinance became effective. The two NFC's

are located at folio No. 32-20150010500 and folio 32-20130010620. Under the former folio No. 32-20150010500 there is also an "Environmental Endangered Land Site" called Madden's Hammock in order to satisfy portions of the parks concurrency requirements. These areas are identified in Exhibit A.

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

Prohibited Plant Species: Plant species identified as nuisances and listed pursuant to section 24-49.9, Miami-Dade County Code as amended from time to time. These plant species shall be removed from sites upon development and upon redevelopment. Developed sites shall be maintained to prevent the growth or accumulation of prohibited species and their sale, propagation, planting, importation or transportation shall be prohibited within the Town.

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

Pruning/Trimming: The selective cutting of Tree or plant parts done to encourage new growth or better flowering: to remove old Stems or deadwood or to shape Trees according to the Standards set forth in the ANSI A300 Tree Care Standards Manual ("ANSI A300 Standards"), incorporated herein by reference.

Replacement or Replacement Trees: Those Trees that are planted for the purposes of restoring the Tree canopy and replacing existing Tree(s) whose removal was authorized under this ordinance.

Roots/ Root Systems: The Tree part containing the organs used for extracting water gases and nutrients from the soil and atmosphere. For the purpose of this Ordinance, root ball shall mean a group of roots extending from the base of a tree trunk that must be intact when relocating a tree in order to promote survival of the tree.

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

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

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

Spread: The average Diameter of the Crown.

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

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

1. Non-native fruit Trees cultivated or grown for the specific purpose of producing edible fruit including but not limited to: mangos avocados or species of citrus; and
2. Non-native species of the genus Ficus; and
3. All multi-trunked trees in the palm family except Acoelorraphe wrightii and Phoenix reclinata.

Town Tree Trust: A Town of Miami Lakes Tree Trust account, will be created for the purpose of which is to acquire, protect and maintain all Town owned trees, natural forest communities in the Town of Miami Lakes, and to plant trees on public property.

Tree: A woody or fibrous plant with an erect perennial trunk at least three (3) inches in Diameter at Breast Height or a woody or fibrous plant with a minimum overall height of at twelve (12) feet. . Tree shall not include any mangrove as defined in Section 24-5 of the Code of Miami-Dade County, Florida.

Tree Abuse: Tree Abuse shall include:

1. Damage inflicted to any part of a Tree, including the Root System, by machinery, construction equipment, cambium layer penetration, storage of materials, soil compaction, excavation, chemical application/spillage, or change to the natural Grade,
2. Hat Racking
3. Girdling, Spiking, or bark removal of the trunk
4. Excessive Root cutting.

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

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

Section C. Applicability.

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

1. It shall be unlawful for any person, unless otherwise permitted by the terms of this ordinance, to do Tree Removal work or to effectively destroy any Tree without first obtaining a permit from the Department; provided the tree is not located within a Miami – Dade County designated Natural Forest Community which is permitted only by Miami-Dade County.

2. No Town official shall issue a Tree Removal permit that does not comply with the provisions of this ordinance. Any such permit shall be null and void.

3. It shall be unlawful for any person to violate or not comply with any of the conditions of a Town of Miami Lakes Tree Removal permit.

4. Any Tree Removal on a public right-of-way or on property owned by the Town shall require a permit from the Department, unless it is determined by the Town Manager or his/her designee that such permit will be an undue burden for the Town and is not in the best interest of the public health safety and welfare of the Town.

5. The following activities are exempt from Tree Removal permits and fees:

   i. Tree Removal within the yard area of an existing single-family residence provided the Trees are not within a natural forest community, and are not Specimen Trees. This exemption does not apply to Trees which are-growing on public rights of way adjoining existing single-family residences;

   ii. Tree Removal for the construction of a new single-family residence, provided that:

      a. The lot is one (1) acre or less in size (43,560 square feet), If an AU zoned lot, or one-half (%) acre or less In size (21,780 square feet), for any other zoned lot; and

      b. The lot is being developed as the principal residence of the Owner; and

      c. The lot is not within an area designated as a natural forest community; and

      d. The Trees are not Specimen Trees.

   iii. Trees that are part of a Mass Replanting/Reforestation program as approved by the Town Council

   iv. Tree Removal to allow for the proper use of property that is in the best interest of public safety and welfare of the Town

   v. Tree Removal of any Dead Tree once the Tree has been determined to be dead or non-salvageable by the Department provided the tree is not located within a Miami–Dade County designated Natural Forest Community which is permitted by Miami-Dade County.

   vi. Tree Removal within State-approved plant nurseries and botanical gardens, provided said Trees were planted and are growing for the display, breeding, propagation, sale, or intended sale to the general public in the ordinary course of business.

   vii. When the Town Manager determines, in writing, that Tree Removal permitting requirements will impede private or public work to restore Town order after a declared state of emergency by the Town Council and provided tree canopy mitigation will be performed to meet the minimum canopy replacement requirements of this Section 24-49 of the Code of Miami-Dade County, Florida.

   viii. Tree Removal of any of the tree species defined as prohibited species listed pursuant to Miami-Dade County as amended from time to time and any other tree species exempt from county tree removal permits pursuant to Section 24-

49.9, of the Code of Miami-Dade County, Florida and those listed in this ordinance, based on the existing county code, in Section B. "Definitions" "Prohibited Tree species" (provided the activity is not within a natural forest community, in which case a permit shall be required).

ix. Tree Removal of any Tree which has been destroyed, or effectively destroyed, by an Act of God, or by acts outside of the control of any person, individually or otherwise, who has or had a legal beneficial or equitable interest in the real property upon which such Tree is located, which acts could not have been prevented by the exercise of reasonable care by any such person, individually or otherwise or has or had a legal, beneficial or equitable interest in the real property upon which such Tree is located. Where a Tree has been destroyed or effectively destroyed by acts outside of the control of a person who has or had a legal,-. beneficial or equitable interest in the real property upon which such Tree is located, which acts could not have been prevented by the exercise of reasonable care by such person, this provision shall be construed to impose joint and several liability upon the person(s) destroying, or effectively destroying, such Tree and to exempt from liability for such destruction or effective destruction the person who has or had a legal, beneficial, or equitable interest in the real property upon which such Tree is located.

x. Any mortgagee with respect to property upon which any violation of this Tree ordinance has occurred shall not be liable for such violation unless, prior to said violation, said mortgagee has foreclosed upon property or participated in the management or control of said property, or unless said mortgagee has effected or caused the Tree ordinance violations occurring on said property.

xi. Nothing in this ordinance shall be construed to prevent the Pruning or Trimming of Trees where necessary for proper landscape maintenance and safety provided that the Pruning or Trimming of Trees is done in accordance with ANSI A3OO Tree Care Standards and the guidelines illustrated in the landscape manual.

xii. A permit shall be required, but all applications and permit fees shall be waived for the removal of any of the following tree species with scientific nomenclature as set forth in Wunderlin, Richard P. and Hansen, Bruce F., Guide to the vascular plants of Florida, 2nd Ed. University of Florida Press, Gainesville, FL. (2003), a copy of which shall be maintained by the Director or Director's designee and available for review by the public. If the activity is within a natural forest community or land protected by a covenant running with the land in favor of Miami-Dade County including, but not limited to, Environmentally Endangered Lands (EEL), Environmental Sensitive Lands, or Tree Preservation Areas.

a. All trees listed below as prohibited species in Miami Dade County Code Section 24-49.9, as amended by the County from time to time.

Abrus precautorius (Rosary pea)

Antigonon leptopus (Coral vine, queen's jewels)

Ardisia crenata (Scratchthroat, coral ardisia)

Ardisia elliptica (Shebutton, shoebutton ardisia)

Cestrum diurnum (Dayflowering jessamine, day blooming jasmine, day jessamine)

Cinnamomum camphora (Camphortree, camphor tree)

Colubrina asiatica (Asian nakedwood, leatherleaf, latherleaf)

Dioscorea alata (White yam, winged yam)

Discorea bulbifera (Air potato, bitter yam, potato vine)

Eichhornia crassipes (Common water-hyacinth)

Ficus altissima (Council tree, lofty fig, banyan tree, false banyan)

Ficus benghalensis (Banyan tree, banyan fig, Indian banyan, East Indian fig tree, Bengal fig)

Hydrilla verticillata (Water thyme, hydrilla)

Hygrophila polysperma (Indian swampweed, green hygro)

Hymenachne amplexicaulis (Trompetilla, West Indian marsh grass)

Imperata cylindrical (Cogongrass)

Ipomoea aquatic (Water-spinach)

Jasminum dichotomum (Gold Coast jasmine)

Jasminum fluminense (Brazilian jasmine, jazmin de trapo)

Ludwigia peruviana (Peruvian primrosewillow)

Lygodium spp. Except L. palmatum (Climbing fern, e.g. Old world climbing fern, Japanse climbing fern)

Macfadyena unguis-cati (Catclaw vine)

Melia azedarach (Chinaberrytree, Chinaberry)

Merremia tuberosa (yellow morning-glory, woodrose, Hawaiian woodrose)

Mikania micrantha (Mile a minute, bittervine)

Neyraudia reeynaudiana (Burmareed, silkreed)

Paederia spp. (Sewervine, skunkvine, onion vine)

Panicum repens (Torpedograss)

Pennisetum purpureum (Elephantgrass, Napiergrass)

Pistia stratiotes (Water lettuce)

Pueraria Montana var. lobatas (Kudzu)

Rhodomyrtus tomentosa (Rose myrtle, Downy rose-myrtle)

Rhynchelytrum repens (Rose natalgrass, Natal grass)

Sapium sebiferum (Popcorntree, Chinese tallowtree)

Scaevola taccada (Beach naupaka, scaevola, half-flower)

Senna pendula var. glabrata (Valamuerto, Climbing cassia, Christmas cassia, Christmas senna)

Solanum tampicense (Aquatic soda apple, wetland nightshade)

Solanum viarum (Tropical soda apple)

Talipariti tiliaceum (Mahoe, sea hibiscus, yellow mahoe)

Tectaria incise (Incised halberd fern)

Tribulus cistoides (Puncture vine, burnut, Jamaican feverplant, billy-goat weed, large yellow caltrop)

Urochloa mutica (Paragrass)

b. Any of the following species as proposed by Miami Dade County as of August 2012:

Araucaria heterophylla (Norfolk Island pine)

Bauhinia purpurea (Orchid tree)

Bauhinia variegate (Orchid tree)

Calophyllum antillanum (Mast wood)

Eugenia uniflora (Surinam cherry)

Hibiscus tiilaceus (Mahoe)

Metopium toxiferum (Poisonwood)

Murraya paniculata (Orange jasmine)

Pittosporum petandrum (Taiwanese cheesewood)

Pongammia pinnata (Tallow tree)

Pouteria campechiana (Eggfruit)

Psidium cattleianum (Catley guava)

Syzygium cumini (Java plum)

Syzygium jambos (Rose apple)

Terminalia catappa (Tropical almond)

Washingtonia spp. (Washington palm)

Section D. Tree Removal, Permit Applications, Requirements, Review, and Fees.

1. Permit, When Required. A Tree Removal permit shall be required for the removal or relocation of any Tree within the Town unless exempted by section C.5. A Tree Removal permit shall also be required for Pruning not in accordance with ANSI A300 Tree Care Standards incorporated herein by reference that has led to its removal or for any root Pruning. No person, agent, or representative thereof directly or indirectly shall cut down, remove, relocate, or effectively remove through Tree Abuse any Tree situated on any property described in section C without first obtaining a Tree Removal permit as hereinafter provided. A Tree Removal permit shall be required for the Pruning of any Tree Roots, except for the Pruning of Roots when essential for any repairs or improvements performed by or for the designated Department. No building permit for any work that has the potential to affect Trees, including new construction additions, carports, pools decks, fences driveways, parking lots, tennis courts, demolition, or similar work shall be issued by the building Department unless the designated Town Department has determined that a Tree Removal permit is not required or that a valid Tree Removal permit has been issued in accordance with this ordinance.

Upon receipt of a completed permit application, the Department shall determine whether the site contains any portion of a natural forest community, specimen trees or any other trees subject to the provisions of this article as follows:

a. If a site contains any specimen trees, then the provisions of Section D-1.c. shall apply.

b. If there are trees present on a site other than specimen trees, then the replacement provisions of Section E. Replacement requirements for tree removal shall apply.

c. Specimen Trees Standards.

   i. *Specimen trees application.* Specimen trees shall be preserved whenever reasonably possible. Upon receipt of an application to remove a specimen tree, the Department shall consider the following factors in evaluating said application:

      - Size and configuration of the property.
      - Size and configuration of any proposed development.
      - Location of the tree relative to any proposed development.
      - Whether or not the tree can be preserved under the proposed plan or any alternative plan.

- Health, condition and aesthetic qualities of the tree.
- Whether the tree poses a threat to persons or property.

ii. *Alternate plans.* If, upon review of the factors enumerated in Section D.1.c.i, the Department determines that a specimen tree cannot reasonably be preserved under the proposed plan, then the applicant shall provide an alternate plan when feasible, which shall include preservation of the specimen tree and design alterations consistent with the scope and intent of the initially-proposed plan. Alterations consistent with the scope and intent of the initially-proposed plan may include, but shall not be limited to:

- An adjustment of building orientation on a site.
- An adjustment of lot lines within a site proposal for more than one (1) lot when said adjustment will not cause an unreasonable loss of usable space. An applicant shall have the burden of proof in the determination of what constitutes an unreasonable loss of usable space.

iii. *Specimen tree relocation.* If preservation of the specimen tree and any alternate design consistent with the scope and intent of the initial plan are mutually exclusive, then the Department may issue a permit to relocate the specimen tree. If the tree removal permit requires relocation, then the applicant shall be required to relocate the tree in accordance with the standards set forth in Section H. Tree relocation Standards.

iv. *Removal of specimen trees.* If relocation of the specimen tree is not feasible, due to the size, health, location, species or any other factor, then a permit may be issued for removal, and tree replacement shall be required.

v. *Replacement requirements for specimen trees.* As a condition of the issuance of a tree removal permit for the removal of a specimen tree, tree replacement requirements shall be twice those specified in Replacement requirement for tree removal Section F.3.1. In the event that replacement is not feasible on-site, then alternative off-site replacement shall be required, or, as a last alternative, there shall be a contribution to the Town Tree Trust for the full value of the replacement trees. Notwithstanding the above, there shall also be a contribution to the Town Tree Trust equivalent to the costs of the

specimen tree replacement requirements of this ordinance. This contribution to the Town Tree Trust is in addition to tree replacement requirements noted herein and is to provide compensation for the irreplaceable loss of the aesthetic and environmental contributions of the specimen tree(s), according to the contribution schedule established by this Ordinance.

vi. *Exemptions from specimen tree replacement requirements.* An applicant may be exempt from the replacement requirements of specimen trees of Section D.1.c.v, but subject to the tree replacement requirements in Section F.3.1. under the following circumstances:

- Upon submittal of a statement from a landscape architect registered in the State of Florida or Certified Arborist which indicates that a specimen tree, due to disease, condition, growth habit or any other reasonable botanical factor, does not provide the aesthetic or environmental contribution associated with a specimen tree. Said statement shall include the specific reason(s) for the claimed exemption from the provisions of Section D.1.c v.

- When preservation of the specimen tree would cause a foreseeable risk to property.

- When a site contains more than one (1) specimen tree, and fifty (50) percent or more of the existing specimen trees and at least fifty (50) percent of the existing specimen tree canopy area is preserved through a covenant running with the land in favor of The Town of Miami Lakes or Miami-Dade County.

d. *Natural Forest Community requirements.* If an application site contains Miami-Dade County designated Natural Forest Community (NFC), the Town shall notify Miami-Dade County's NFC Permitting Program and inform the applicant in writing that no work shall occur within the Natural Forest Community boundaries without prior written approval of Miami-Dade County. All approvals, authorizations and permits issued by the Town shall be in accordance with the applicable requirements of Chapter 24 of the Code of Miami-Dade County, Florida including but not limited to Section 24-49.3(2).

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

a. ***Applications*** for Tree Removal in conjunction with new construction, including additions pools and decks shall include a ***Tree survey or sketch;*** drawn to scale, identifying the Tree species location and listing the height Spread and Diameter of all existing Trees. The Tree survey shall illustrate the location of all existing structures, the location of any overhead and/or underground utilities and the right-of-way limits edges of pavement, including all Trees within the right-of-way. This survey shall be prepared by a professional land surveyor, or sketch provided by a person holding a professional license as an Architect, Engineer or Arborist, licensed in the State of Florida. Applications for a building permit or Tree Removal shall also include a ***Tree disposition plan*** drawn to scale identifying and listing all existing Trees and specifying the condition of each Tree and whether said Trees are to remain, to be removed and/or to be relocated. The Tree disposition plan shall also contain the value of Specimen Trees that are listed to remain and/or to be relocated. The valuation of Trees shall be appraised using the Council of Tree and Landscape Appraisers Guide for Plant Appraisal latest edition incorporated herein by reference. The Tree disposition plan shall superimpose all proposed new construction, and the new locations of existing Trees to be relocated on site over the Tree survey plan information. For applications involving the construction of a new building(s), the Tree disposition plan shall be prepared by and bear the seal of a landscape architect currently licensed in the State of Florida.

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

c. All applications shall have a ***Tree replacement plan*** or landscape plan drawn to scale that illustrates all proposed new construction, new locations of relocated Trees, and new replacement Tree locations that comply with the requirements of Section F entitled **"Procedure for determining tree replacement requirement".** For applications involving the construction of a new building(s)

the Tree replacement plan shall be prepared by and bear the seal of a landscape architect currently licensed in the State of Florida.

d. Anytime construction or development is to be undertaken a Tree protection bond equal to the value of the Specimen Tree(s) to remain and/or to be relocated shall be posted. The bond shall remain in effect for one (1) year after the final certificate of occupancy is issued. A copy of this bond is to be provided as part of the permit application.

e. Tree Removal and Tree replacement for Town homestead residents are to comply with the following alternate requirements:

i. Non-specimen and non-native Tree or palm species may be removed after obtaining a Tree Removal permit. Tree replacement shall be required at a one to one ratio upon written confirmation from the Town; an inspection from the Town arborist will be required in order to confirm the Tree species.

ii. Any removal of a Specimen Tree native Tree or native palm species shall require a Tree Removal permit, and shall comply with the Tree replacement quantities and requirements contained within Section F of this ordinance.

iii. Hazardous and Fatally Diseased Trees may be removed after obtaining clearance from a ***Certified Arborist*** confirming that the Tree is hazardous or fatally diseased. The Department may require photographs of the Tree(s) depicting the hazardous condition signs or symptoms of a fatal disease or a Dead Tree. Furthermore, the Department may require supporting documentation such as a letter of opinion from a ***Certified Arborist,*** hazard Tree analysis, laboratory analysis report, or relevant scientific literature. After obtaining a Tree Removal permit, the designated Tree(s) may be removed without the need for Tree replacement except for specimen trees which require standard canopy replacement pursuant to Section 24-49.2(II)(6) of the Code of Miami-Dade County, Florida; Said replacement shall be performed in accordance with Section F of this ordinance. Specimen trees that are destroyed or effectively destroyed by an Act of God may be removed without the need for tree replacement.

iv. Prohibited Trees may be removed without the need for Tree replacement.

v. Homestead residents may obtain a Tree Removal permit for their property.

3. Review of Application. Upon receipt of a completed application, the Town shall review said application for compliance with the regulations as set forth in this ordinance. Such review shall include a ***field inspection*** of the site and referral of the application to other Departments or agencies as necessary. Within thirty (30) calendar days of the receipt of a completed application the Department shall issue an intended decision approving, denying, or approving with conditions the permit request.

4. Notice. Within seventy-two (72) hours of issuing the intended decision for a Tree Removal permit, the Town shall notify the Applicant and post a notice of the intended decision on or adjacent to the subject property in a location where it is visible to the general public. The posting shall provide a general description and location of the Tree(s) on site to be removed or other action requiring the Tree Removal permit.

5. Issuance of Permit. If no appeal in accordance with Section H is timely filed within five (5) calendar days of the issuance of the intended decision, the Tree Removal permit if originally approved by the Department shall be issued. The property Owner shall ensure that the Tree Removal permit is displayed until the authorized work is completed.

6. Fees. Fees shall be as established pursuant to the Fee Schedule as attached in Exhibit "B" and may be amended by Resolution from time to time. Applications from government agencies for Tree Removals in areas dedicated to public use may, at the discretion of the Town Council, be exempted from application fees and permit fees by resolution.

7. Final Inspection. No later than six (6) months following the completion of the authorized work, the Applicant shall schedule a final inspection with the Department for verification and acceptance of the final authorized work.

Section E. Replacement requirements for tree removal.

1. Criteria for Tree Removal. No permit shall be issued for Tree Removal unless one of the following criteria exists:

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

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

c. The Tree is an exotic Tree species and will be replaced with a native Tree species to promote good forestry practices; creates a health hazard; interferes with native Tree species or creates a negative impact on natural land features such as

rock, outcroppings, sink holes, or other geological historical or archeological features.

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

2. ***Conditions for Tree Removal; Relocation and Replacement.*** Any or All of the Following Conditions Shall be Required:

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

b. Where practical, Specimen Trees or any other Tree determined by the Department to be of substantial value because of its species; size age form and/or historical significance; proposed for removal and that cannot be preserved in its present location shall be relocated on or off-site. The Applicant shall adhere to acceptable Tree relocation standards and specifications. The Department shall require a ***Certified Arborist*** to monitor the root Pruning and Tree relocation preparation efforts on site and to provide documentation certifying that the work was accomplished according to acceptable Tree relocation standards and specifications.

c. If it is impractical to relocate said Tree(s) either on or off-site; because of age, type, or size the Applicant shall be required to replace all Trees permitted to be removed in accordance with the Tree replacement requirements in Section F.

d. The Department may require that the Applicant provide a written report from a ***Certified Arborist*** before making any determinations in conjunction with this section. The Department may also require monitoring by a Certified Arborist during construction to assure Tree preservation.

Section F. Procedure for determining tree replacement requirement.

Tree replacement requirements. As a condition of the issuance of a tree removal permit, the permittee shall be required to replace trees that are authorized to be removed under the provisions of this article. The number of trees and number of species of trees required for replacement shall be determined according to the procedures contained herein. When the replacement canopy area exceeds ten thousand (10,000) square feet, replacement shall be described in a landscape replacement plan which shall meet the minimum requirements of Section F.5 "Requirement for a landscape replacement plan", and no tree removal permit shall be issued until said plan has been approved by the Department, except as provided in Subsection F.9 "offsite replacement trees".

The following are exempt from this section:

(i) All tree removal activities included in Section C.5

(ii) Trees which have been successfully relocated, pursuant to Section H. "Tree relocation standards".

(iii) Specimen trees that are destroyed or effectively destroyed by an Act of God may be removed without the need for tree replacement.

The Town shall determine the location and total number of replacement Trees required for the issuance of a Tree Removal permit according to the following procedural steps:

1. Determining existing tree canopy coverage on-site. The area of existing tree canopy coverage of a site shall be determined by the Department, using one (1) or any combination of the following methods: Review of aerial photography; on-site inspection; and review of a tree survey. The Department may require the applicant to submit a tree survey for the purpose of this determination.

2. Determining Impact Area of Proposed Project: The area of existing canopy coverage which will be affected (impact area) by the Applicant's proposed development shall be determined by the Department. This determination shall be based on a ***Site Plan and completed Tree Removal permit application*** form submitted to the Department by the Applicant.

3. Determining Number of Replacement Trees Required to be Planted. The total number of Trees required for replacement shall be based on the area of impact and the category of replacement Tree selected by the Applicant. Each replacement Tree shall compensate for a portion of the Tree canopy lost in the impact area. The following table shall be used as a standard for determining the required number of replacement Trees:

Chart F.3.1 Tree Replacement Chart

Category Replacement Tree	Portion of Impact Area that each replacement Tree compensates for in sq.ft.	Min. size in feet
Hardwood/Shade Tree 1	500	12' overall
Hardwood/Shade Tree 2	300	8' overall
Palm Tree 1	300	10' clear trunk
Palm Tree 2	100	3' clear trunk
Small Tree	200	6' overall height

Any combination of shade Trees, palm Trees, or small Trees shall be an acceptable replacement, provided the total number of Trees from all replacement categories compensate for the lost canopy. In the event that a replacement Tree actually has more canopy coverage at the time of planting than the amount of credit allowed under the Tree replacement formula above, then the Applicant shall receive full credit for the canopy coverage, provided by the replacement Tree at

the time of planting. The Applicant shall submit a list of proposed replacement Trees on a form provided by the Department, except when the total number of replacement Trees exceeds twenty (20), and then the Applicant shall be required to submit a landscape replacement plan consistent with the provisions of Section D.2.c. Proposed replacement lists or plans are subject to Departmental approval. The Department shall approve proposed replacement Trees that are consistent with the standards of Section D.2.c. and Section F.

4. Minimum Standards for Replacement Trees.

a. All replacement Trees shall have a minimum quality of a Florida No. 1 Grade or better.

b. The Department shall maintain a list of species for each category of replacement Tree, in order to meet the requirements of Tree Replacement Chart F.3.1.This list may be amended from time to time, as necessary. Replacement Tree heights shall be determined by overall height measured from where the Tree meets the ground to the top-most branch.

i. All category 1 replacement shade Trees shall be a minimum of twelve (12) feet in height at the time of planting and at maturity should have canopy coverage of five hundred (500) square feet under normal growing conditions.

ii. All category 2 replacement shade Trees shall be a minimum of eight (8) feet in height at the time of planting and at maturity should have canopy coverage of three hundred (300) square feet under normal growing conditions.

iii. All category 1 replacement palm Trees shall have a minimum height often (10) feet at the time of planting and at maturity should have canopy coverage of three hundred (300) square feet under normal growing conditions.

iv. All category 2 replacement palm Trees shall have a minimum height of three (3) feet at the time of planting and at maturity should have canopy coverage of one hundred (100) square feet under normal growing conditions.

v. All replacement small Trees shall have a minimum height of six (6) feet at the time of planting and at maturity should have canopy coverage of two hundred (200) square feet under normal growing conditions.

5. Requirements for a Landscape Replacement Plan. A landscape replacement plan shall be submitted to the Department by the permit Applicant when a minimum of ten thousand (10,000) square feet of replacement canopy is required under the provisions of Section F. All landscape replacement plans shall meet the following minimum standards:

a. The number of Trees, number of species of Trees, and size of Trees proposed for planting shall be consistent with Section F.

b. The Applicant shall submit a Site Plan that includes the proposed replacement locations of all replacement plantings and Tree relocations, all property lines, and all proposed and existing structures, driveways and utility easements.

c. The canopy Spread of any Tree that is proposed for preservation shall be shown on the plan. Where a portion of the canopy of a Tree or Trees shall be removed without Tree Removal, a notation shall be made on the plan.

d. The Applicant shall have the burden of demonstrating that a design meets the intent of this ordinance. At a minimum, an alternative landscaping enhancement plan shall include, without limitation:

i. A statement, prepared by a landscape architect registered in the State of Florida, which indicates that the intent of this ordinance can be effectively met through the submission of the alternative design; and

ii. A Site Plan, prepared by a landscape architect registered in the State of Florida, that includes the proposed location, scientific name or description of all vegetation to be preserved or planted, all property lines, and all proposed or existing structures, driveways and utility easements; and

iii. A tabulation that identifies any deviation from the requirements of Section F explicitly provides Tree replacement alternatives.

c. The Department may approve an alternative landscape enhancement plan when:

i. The design preserves and incorporates existing vegetation; and

ll. The design exceeds the minimum requirements or equivalent of Section

6. Location of Replacement Trees.

If the subject property cannot accommodate the required replacement Trees because of insufficient planting area as determined by the Department, then the Applicant shall be required to plant replacement Trees at an off-site location subject to Departmental approval, or, as a last alternative, shall provide an equitable contribution to the Town Trust to compensate for those replacement Trees which cannot be accommodated on site. The Applicant instead may enter in an agreement with the Town, as approved by the Department to plant the excess remaining Trees in public property within the Town boundaries. The amount of the contribution shall be determined according to the provisions of Section F.10. If any Applicant is in doubt as to whether a particular site can sufficiently accommodate the required number and species of replacement Trees as initially determined by the Department, then the Applicant shall submit a statement prepared by a landscape architect registered in the State of Florida, indicating whether, in his professional opinion, the site can accommodate the required number of Trees and species.

7. ***Minimum Species Diversity Standards.*** When more than ten (10) Trees are required to be planted in accordance with the provisions of this section, a diversity of species may be required. The number of species to be planted shall be based on the overall number of Trees required. The Applicant shall be required to meet the following minimum diversity standards:

a. Chart F.7.a. Tree Species Diversity Chart

Required number of Trees	Required minimum number of species
11 – 20	2
21 – 50	4
51 or greater	6

b. ***Tree Species***. Tree(s) installed as replacement Trees shall be of a native or non-native species and shall be planted at Grade or ground level according to ISA best management practices manual incorporated herein by reference. When more than ten (10) Trees are installed as replacement Trees, a diversity of species shall be required as per Chart F.7.a Tree Species Diversity Chart, above.

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

8. Tree Quality. Trees installed as replacement Trees in accordance with this section shall conform to or exceed, the minimum standards for Florida Number #1 grade as provided in the most current edition of "Grades and Standards for Nursery Plants Part I and II " prepared by the Florida Department of Agriculture and Consumer Services and incorporated herein by reference. Trees shall be planted according to Sound Nursery Practices as illustrated in the landscape manual.

9. Offsite Replacement Trees. If the total number of Trees required as replacement Trees cannot be reasonably planted on the subject property, the Applicant may enter into an agreement with the Town as approved by the Department, to plant the excess replacement Trees on public property within the Town limits. An alternative to off-site replacement is provided in section F.10 relating to the contribution to the Tree trust fund. Applicants may do both to the extent that they should proffer to do so.

10. Town Tree Trust.

a. ***Creation of the Tree Trust.*** There is hereby created a Town of Miami Lakes Tree Trust account, the purpose of which is to acquire, protect and maintain all Town owned trees, natural forest communities in the Town of Miami Lakes, and to plant trees on public property.

b. ***Disbursement and maintenance of the Tree Trust.*** Monies obtained for the Tree Trust Fund shall be disbursed for the acquisition, maintenance, management and protection of natural forest communities and for planting trees on public property. Such monies may be used as a matching fund contribution towards the acquisition of natural forest communities in Miami-Dade County and the Town of Miami Lakes in

association with other public land acquisition programs, such as, but not limited to, the State of Florida Conservation and Recreational Lands Trust Fund and the Miami-Dade County Environmentally Endangered Lands Program. Said Trust shall be kept and maintained in trust by the Town Council solely for the purposes set forth in this section in a separate and segregated account of the Town which shall not be commingled with other Town funds until disbursed for an authorized purpose pursuant to this section. Disbursement from the Tree Trust account shall require approval by resolution of the Town Council, provided, however, that any funds received pursuant to the conditions of any tree removal permit shall be used as required by the permit conditions without the necessity of approval, appropriation, or action of any kind by the Town Council. Prior to approving disbursements, Town Council shall consider the recommendations of the Town Manager. The Town Manager, prior to making any such recommendations, shall consider the recommendations of the Department pertaining to the proposed disbursement(s) for the acquisition of natural forest communities or planting of trees on public property. The Town Manager is hereby authorized to establish the Tree Trust account and to receive and disburse monies in accordance with the provisions of this section.

c. ***Source of monies for the Tree Trust.*** Said Tree Trust account shall consist of the following monies:

   i. All monies collected by the Department required pursuant to Section D.1.c.v and environmental damages to tree or forest resources and environmental mitigation for the loss of tree or forest resources which are obtained through civil lawsuits, consent agreements or after-the-fact tree removal permits, except penalties and administrative costs.

   ii. All monies offered to and accepted by the Town of Miami Lakes for the Tree Trust account in the form of federal, State, or other governmental grants, allocations or appropriations, as well as foundation or private grants and donations, shall be disbursed strictly in accordance with terms and conditions of the grant, allocation, appropriation or donation and shall be earmarked accordingly.

   iii. Contributions in lieu of, or in conjunction with, the replacement planting provisions of this ordinance. The Department shall collect funds designated for the Tree Trust account when the replacement planting requirements of this ordinance cannot be met.

d. ***Interest.*** Unless otherwise restricted by the terms and conditions of a particular grant, gift, appropriation or allocation, all interest earned by the investment of all monies in the Tree Trust shall be disbursed by resolution of the Town Council for any project authorized consistent with this ordinance. Trust monies shall be invested only in accordance with the laws pertaining to the investment of Town funds.

Decisions to grant or deny tree removal permits shall be made without consideration of the existence of this fund or offers of donations of monies thereto.

e. ***Contribution to Town.*** If the total number of Trees required as replacement Trees cannot be reasonably planted on the subject property or at a Department approved off-site location, the Applicant shall contribute to the Town Tree Trust, required as replacement Trees in accordance with Section F. as follows.

i. The sum of one thousand dollars ($1000.00) for each Shade Tree 1 Category

ii.The sum of six hundred dollars ($600.00) for each Shade Tree 2 Category or Palm Tree 1 Category

iii.The sum of two hundred dollars ($200.00) for each Palm Tree 2 Category

iv.The sum of four hundred dollars ($400.00) for each Small Tree Category

v. An addition or an alternative to contributing to the Town Tree Trust is provided in Section F.9, relating to off-site replacement Trees. Applicants may do this upon approval by the Department.

11. Preservation Credit for Relocated Trees. Permittees who successfully relocate Trees shall receive full credit for the relocated Trees and the Tree replacement requirements herein shall not apply to such relocated Trees. All relocated Trees shall meet the standards set forth in Section E for Tree relocation.

12. Completion. The replacement Tree process shall be completed prior to the issuance of a certificate of occupancy or temporary certificate of occupancy. Moreover the approval of a Tree relocation or Tree Removal permit is contingent on any requirements set forth in Section E and Section F above.

Section G. Tree Protection.

1. Tree Protection During Construction. Trees shall be protected during construction activity as determined by the Building Department but as a minimum includes:

a. ***Protective Barriers*** shall be in place prior to the start of any demolition and/or development or construction, including installation of irrigation systems or any other underground installations Protective Barriers shall be placed around each Tree and shall remain in order to prevent the destruction or damaging of Roots, Stems or Crowns of

such Trees. The barriers shall remain in place and intact until development is completed and the department has authorized their removal, however barriers may be removed temporarily to accommodate construction needs provided that the manner and purpose for such temporary removal will not harm the Trees. Trees that are to remain shall be clearly identified with tags. A protected area with a radius often (10) feet shall be maintained around Trees to remain in accordance with the landscape manual, unless a ***Certified Arborist*** otherwise determines in writing that a smaller or larger protected area is acceptable for each Tree, or an alternative Tree protection method is approved the trees shall be properly irrigated throughout the building process. Trees damaged during construction shall be subject to the provisions of section K. Enforcement.

b. Understory plants within ***Protective Barriers*** shall be protected.

c. No excess-oil, fill, equipment, building materials or building debris shall be placed within the areas surrounded by ***Protective Barriers***, nor shall there be disposal of any waste material such as paints, oils, solvents, asphalt, concrete, mortar or any other material harmful to Trees or understory plants within the areas surrounded by ***Protective Barriers***.

d. Trees shall not be braced in such a fashion as to scar, penetrate, perforate or otherwise inflict damage to the Tree.

e. Natural Grade shall be maintained within ***Protective Barriers***. In the event that the natural Grade of the site is changed as a result of site development such that the safety of the Tree may be endangered, Tree wells or retaining walls are required.

f. Underground utility lines shall be placed outside the areas surrounded by ***Protective Barriers***. If said placement is not possible, disturbance shall be minimized by using techniques such as tunneling or overhead utility lines.

g. Fences and walls shall be constructed to avoid disturbance to any protected Tree. Post holes and trenches located close to Trees shall be dug by hand and adjusted as necessary, using techniques such as discontinuous footings, to avoid damage to major Roots.

2. Tree Protection During Pruning/Trimming. The Pruning or Trimming of any Tree shall be done in accordance with the standards set forth in the ANSI A300 Tree Care Standards and the guidelines illustrated in the landscape manual both incorporated herein by reference. Any improper pruning methods shall be prohibited. Any other Tree Abuse or activity that can effectively destroy a Tree shall also be considered a violation of this ordinance subject to the provisions of Section K. Enforcement.

3. Exceptions to the Provisions of Section G.1. Exceptions to the provision of Section G.1 shall be approved only when the permittee receives specific written authorization from the Department. The Department shall not issue written approval unless it determines that the affected Tree(s) can be adequately protected without meeting the requirements of Section G.1 or due to exceptional circumstances it is not practical or reasonable to meet the requirements of Section G.1.

4. When Trees are Destroyed. If the requirements of Section G.1 a. through g. are not adhered to by the permittee and the Trees are effectively destroyed, then all such Trees shall be replaced according to the standards of Section F, in addition to being subject to the penalty provisions of Section L.

Section H. Tree Relocation Standards.

The relocation of any Tree that is subject to the provisions of this ordinance shall be consistent with the following minimum standards:

1. Trees Other Than Palms:

a. Tree Roots shall be severed in such a manner as to provide a root ball which is sufficient to ensure survival of the Tree when relocated. A sufficiently sized planting hole shall be provided at the relocation site to ensure successful regrowth.

b. After root severing, adequate time shall be allowed prior to replanting to ensure survival of the Tree(s). After root severing and prior to relocation, Tree(s) shall be watered a minimum twice weekly. After relocation, Tree(s) shall be watered a minimum of twice weekly until the Tree(s) are established

c. During removal and transportation of the Tree, the root ball and vegetative portions of the Tree shall be protected from damage from wind or injury.

d. Any Tree that dies or becomes nonviable within one (1) year of relocation shall be replaced according to the standards set forth in Section F.

2. Palms:

a. A ball of earth at least one (1) foot from the base of the Tree shall be moved with the Tree.

b. Fronds shall be securely tied around the bud prior to relocation, and shall remain securely tied around the bud during the entire relocation process and for a minimum of one (1) week after relocation.

c. The bud shall be protected from damage or injury during relocation.

d. Any palm that dies or becomes nonviable within one (1) year of relocation shall be replaced according to the standards set forth in Section F.

Section I. Prohibited Plant Species.

1. The list of exotic pest plant species that may not be sold, propagated or planted, with the exception of Ficus benjamina, anywhere in Miami-Dade County pursuant to Section 24-49, Code of Miami-Dade County, Florida or Policy 8I of the Conservation Element of the Comprehensive Development Master Plan for Miami-Dade County, Florida, as may be amended from time to time, is hereby incorporated by reference. If present on a development or redevelopment site, these species shall be removed prior to development, and their sale, propagation, planting, importation or transportation shall be prohibited. Pursuant to this Section and in accordance with Chapters 19 and 24 of the Code of Miami–Dade County, Florida, developed sites shall be maintained to prevent the growth or accumulation of prohibited species including grass, weeds and non-native undergrowth.

2. Definitions for Section

a. *Importation* shall mean the conveyance by any means of plants, cutting, or seeds into the Town of Miami Lakes

b. *Planting* shall mean the placing on or setting into the ground of live plant material.

c. *Propagation* shall mean the physical act of causing plants to multiply by any process of reproduction from plant stock.

d. *Sale* shall mean the act of transferring or conveying plants to a purchaser for consideration.

e. *Transportation* shall mean the act of carrying or conveying plants or plant material including cutting or seeds from one place to another for the purpose of sale, planting, importation or propagation.

3. Variances.

A variance to the requirements of section I shall be submitted to the Town for approval.
Before final approval, the Town will notify the Miami-Dade County PERA Department of any requests made. Miami-Dade County will have fifteen (15) days from the time of notification in which to notify the Town of its choice to exercise the right to comment or appear on any decision made by the Town.

A variance by the Department from the Transportation, Propagation and Planting prohibitions of this section may be requested, subject to the conditions justifying variance approval outlined below. Said variance request shall be made in writing to the Department and shall include the following information:

i. Name and address of the person or persons requesting the variance.

ii. Location of the property for which the variance is requested.

iii. A sketch or-drawing indicating the location within the subject property where the Planting or field Propagation of the otherwise prohibited plant species will occur. (Container Propagation shall be exempt from said sketch or drawing requirements.)

iv. The reason or reasons for requesting the variance.

The Department may, in its sole discretion, issue a variance from the provisions of this section based upon the following factors:

i. Proximity of the subject Planting or Propagation to any environmentally sensitive areas (e.g., wetlands, hammocks, pinelands, dunes).

ii. Lack of appropriate alternative plant species to fulfill the same purpose or purposes for Planting

The Department shall approve or deny a variance request within thirty (30) days of receipt of the variance request, provided the required information described in Section have been submitted. However, if the person or persons requesting a variance or the Miami-Dade County PERA

Department request an administrative review hearing regarding the variance, the thirty (30) day timeframe will not apply.

J. Appeals, Appellate Fees.

1. Appeals to the Town Council. The property Owner, the Applicant, the Department or any aggrieved party having standing under Florida law may appeal to the Town Council any decision of the Department relating to applications for Tree Removal permits by filing a written notice of appeal with Town Clerk within fifteen (15) calendar days after the date of the decision. The property Owner, the Applicant or any aggrieved party having standing under Florida law may appeal to the Town Council any Tree Removal permit granted to Town, or to their contractors, by filing written notice of appeal with the Town Clerk within fifteen (15) calendar days after the date of issuance of the permit. The notice of appeal shall include the decision appealed from, and the reasons or grounds for the appeal. The Town Council shall conduct a hearing de novo as a body of original jurisdiction upon any appeal and/or review from an appealable decision under the terms of this ordinance as amended. New evidence or materials may be received by the Town Council where such evidence or materials are pertinent to a determination of the appeal. The Town Council may hear the testimony of witnesses and/or any other evidence offered by any person aggrieved or by any officer, board or agency of the Town affected thereby or by any interested party having an interest in the appeal under Florida law and may in conformity with this ordinance and other applicable laws rules and regulations, render its decision. The Town Council shall hear and consider all facts material to the appeal and may affirm, modify, or reverse, in whole or in part, with or without conditions Town's Department decision, or may grant or deny the appeal of the Tree Removal permit issued to the Town.

All appeals to the Town Council in accordance with this section shall be accompanied by a fee of two hundred and fifty dollars ($250.00) plus three dollars and fifty cents ($3.50) per mailed notice to the adjacent Owners within a 500' radius. However, no fees shall be assessed for appeals initiated by an Owner of property which abuts the subject property for which a Tree Removal permit is sought, including properties located across a street or alley from the subject property, appeals by a nonprofit corporation dedicated to conservation and protection of the natural and physical environment, or appeals by a Homeowners association, as that term is defined by Chapter 720 Florida Statutes, as amended which has one member who owns property within five hundred (500) feet of the subject property.

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

2. Notice. All public hearings on appeals shall be noticed as follows. Notice of the time and place of the public hearing shall be in writing and mailed at least ten (10) calendar days in advance of the hearing to the Owner of the subject property and the Owners of the adjacent properties. At least ten (10) calendar days in advance of the hearing a sign in compliance with the provisions of the Town's Code shall be posted on the subject property.

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

K. Enforcement.

1. Jurisdiction. The Department shall have jurisdiction for the proper and effective enforcement of this ordinance. The Department shall have the right to inspect subject properties in accordance with the approved Tree Removal permit and the provisions of this ordinance.

2. Individual Enforcement. Each Tree removed without a Tree Removal permit shall constitute a separate and distinct violation and shall be the subject of individual enforcement.

L. Penalties, Remedies Cumulative.

1. Fine. Any person or agent thereof who removes a Tree without a Tree Removal permit shall be fined up to one thousand dollars ($1,000.00) per day per violation for a first violation, and shall be fined up to five thousand dollars ($5,000. 00) per day per violation for every repeat violation of this ordinance, or a greater penalty as provided by law and shall undergo the Tree replacement process pursuant to section F. Each Tree removed without a Tree Removal permit shall constitute a separate and distinct violation, subject to a separate fine and Tree replacement pursuant to section F.

2. Tree Replacement Required. The planting of replacement Trees shall be required in addition to the monetary fines assessed pursuant to this ordinance. The number of Trees required as replacement for each Tree that was removed without a permit is provided in chart F.3.1. If the total number of Trees required as replacement Trees cannot be reasonably planted on the subject property, the Applicant may contribute to the Town Tree Trust in the amount provided in Chart L.2.. Tree Replacement Chart for Trees Removed without a Permit.

Diameter (DBH)*	Contribution to Town Tree Trust
0 2"--3"	$1,000.00
4"--6"	$2,000.00
7"--I2"	$4,000.00
l3"--l8"	$6,000.00
l9"--24"	$8,000.00
25"--30"	$10,000.00
3 1 "--36"	$12,000.00

37"--42"	$14,000.00
43"--48"	$16,000.00
49"--60"	$20,000.00

*Note: Minimum sizes:

Plant Type	Minimum size	Category
Hardwood Tree	12' overall height	1
Hardwood	8' overall height	2
Palm	10' clear trunk	1
Palm	3' clear trunk	2
Small Tree	6' overall height	3

3. Tree Viability After Project Completion. If the Department determines that any Tree is not viable alive and growing one year after all associated Development Activity on the property is completed the Department shall require that said Tree be replaced with the same Tree species and size which was originally planted or relocated as per the approved Tree Removal permit.

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

5. Withholding of a Certificate of Occupancy. The Department shall not approve the zoning inspection required for a temporary or final certificate of occupancy until all violations of this ordinance have been corrected, including the payment of all fines and the planting of all replacement Trees required as mitigation pursuant to this section.

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

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

[END OF ORDINANCE]

Section 3. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

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. **Inclusion in the Town Code**. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Article", "Division" or other appropriate word.

Section 6. **Effective Date**. That this Ordinance shall be effective immediately upon its adoption on second reading.

The foregoing Ordinance was offered by Councilmember Collins, who moved its adoption on first reading. The motion was seconded by Councilmember Hernandez and upon being put to a vote, the vote was as follows:

Mayor Michael Pizzi	Yes
Vice-Mayor Ceasar Mestre	Yes
Councilmember Nick Perdomo	Yes
Councilmember Mary Collins	Yes
Councilmember Tim Daubert	Absent
Councilmember Nelson Hernandez	Yes
Councilmember Richard Pulido	Yes

PASSED AND ADOPTED on first reading this 10th day of July, 2012.

The foregoing Ordinance was offered by Councilmember Collins, who moved its adoption on second reading. The motion was seconded by Councilmember Pizzi, and upon being put to a vote, the vote was as follows:

Mayor Michael Pizzi Yes

Vice-Mayor Ceasar Mestre	Yes
Councilmember Nick Perdomo	Yes
Councilmember Mary Collins	Yes
Councilmember Tim Daubert	Yes
Councilmember Nelson Hernandez	Yes
Councilmember Richard Pulido	Yes

PASSED AND ADOPTED on second reading this 4 day of October, 2011.

MICHAEL PIZZI
MAYOR

ATTEST:

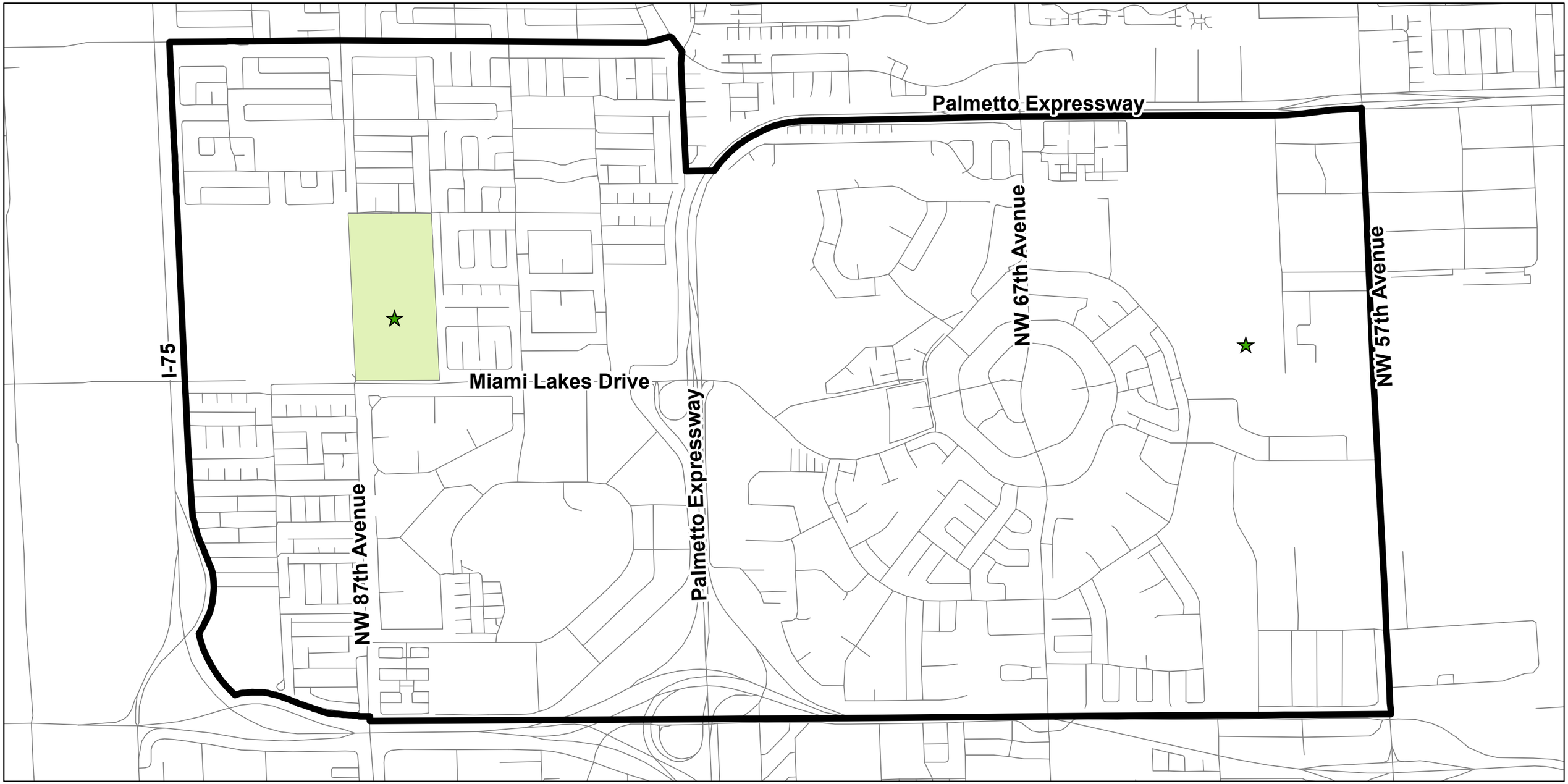
M. Tejeda

MARJORIE TEJEDA
TOWN CLERK

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF THE TOWN OF MIAMI LAKES ONLY:

Joseph S. Geller

JOSEPH S. GELLER
GREENSPOON MARDER PA
TOWN ATTORNEY



Town of Miami Lakes

Environmental Preservation Areas

EXHIBIT "A"

N

0 0.25 0.5

Miles

Environmentally Endangered Land Sites*

Natural Forest Community*

* Designations are per Miami-Dade County

Date: June 26, 2012

M:\Data2\Planning and Zoning\Maps\PDF\Environmental Preservation Areas.pdf

Exhibit "B"

Tree Removal/Relocation Permit Fee Schedule

Zoning of Property	Before inspection (Insp.) (must be submitted with the tree removal/relocation application (appl.))	After inspection (insp.) (must be paid before Department signs/executes the tree removal/relocation permit)
Single Family/Residential	$63 appl + $35 initial insp. =$98	$35 final insp. + $12 per tree up to max. of $320
Multi-Family	$80 appl + $35 initial insp. = $115	$35 final insp. + $12 per tree up to max. of $395 (acre) (canopy)
Business	$105 appl + $35 initial insp. = $140	$35 final insp. + $12 per tree up to max. of $395 (acre) (canopy)
Commercial	$105 appl + $35 initial insp. = $140	$35 final insp. + $12 per tree up to max. of $660 (acre) (canopy)
Agricultural	$55 appl + $35 initial insp. = $90	$35 final insp. + $6 per tree up to max. of $265 (acre) (canopy)
Right of Way/Swale	$28 appl + $35 initial insp. =$63	$35 final insp. + $6 per tree up to max. of $265 (acre) (canopy)

- Inspection fees listed above are based on applications to remove and/or relocate and assess 20 trees or less. For projects with more than 20 trees, the inspection fees are adjusted as follows:
  - 21-100 trees to be inspected: $65
  - 101-200 trees to be inspected: $135
  - More than 200 trees to be inspected: $265

- For all new application submittals, the application and the initial inspection fee are required for processing

- For After-the Fact (ATF) tree removal/relocation permits, the application and the per tree(s) fee are doubled (2x). The fees listed above are based on voluntary (not ATF) applications

- For relocation only permits, there is no per tree(s) fee charged, only the application and inspection fees

- In order to renew/extend a permit, you will be required to pay the original application fee amount prior to the expiration of the current permit

- For permit and fee exemptions, please refer to Town tree protection ordinance no. XXX

- **Please be advised that the application and the initial inspection fee are required upon permit application submission and are non-refundable if cancelled, withdrawn, or denied**

Exhibit "C"

Replacement Native Tree Species List

Large Trees

- Bursera simaruba- Gumbo-limbo / Almacigo
- Conocarpus erectus- Buttonwood / Yana, Mangle Bot6n
- Lysiloma latisiliquum- Wild Tamarind / sablcu, Jigue
- Quercus virginiana – Live Oak / Encina
- Simarouba glauca- Paradisetree / Gavilan, Juan Primero

Medium Trees

- Chrysophyllum oliviforme- Satin leaf / Caimitillo
- Coccolobe diversifolia- Pigeon Plum / Uvilla , Guaya canejo. Guayabillo. Jaguilla
- Coccotobs uvifera- Seagrape / Uva Caleta, Uvero
- Coccothrinax argentata- Silver palm / Guano Blanco, Miraguano
- Ficus citrifolia- Shortleaf fig / Higo
- Ilex cassine- Dahoon Holly / Vanilla Blanca, Vigueta Naranjo, Acebo

Small Trees/Large Shrubs

- Ardisia escalJonioides- Marlberry / Ardisia, Frutilla "Marlbe rry"
- Harmelia patens- Firebush / Ponasi or Ponosf
- Callicarpa Americana- Beautyberry/ Filigrana de Mazorca, Frutilla "Beautyberry
- Capparis cynophallophora- Jamaica caper/ Aceitunillo, Cabeza deToro, Curavara, Frijol
- Chrysoba/anus iceco, with varieties 'Red Tip' and 'Horizonta l"- Cocoplum / lcaco, Caramio, Hicaco, (con variedades 'Puntas Rojas' y 'Horizontales')
- Coccolobe uvifera- Seagrape / Uva caleta, Uvero
- Eugenia foetida- Spanish Stopper / Guairaje, Guairaje Blanco o Colorado
- Forestiera segregate- Florida Privet / Adelia, Vanilla Blanca
- Myrcianthes fragrans- Simpson stopper / Pimienta
- Myrica cerifera- Wax myrtle / Arraigan, Mirto
- Psychotria nervosa- Wild coffee / Balsamo, Palo Moro, Cafe Cimarron, Tapa Camino
- Rapanea punctate- Myrsine / Camaguilla
- Serenoa repens - Saw palmetto, with 'Cinerea' (silver) form / Palmetto - can forma plateada

***Any trees not listed above may qualify as replacement trees upon the written approval of the Department**