

Tree Removal and Replacement

The General Protective Covenants of River Wilderness Per Article 3, Paragraph 3.05 -Master Covenant Per Tree Amendments to neighborhood covenants

ARC Guidelines Policy Supplement Per Article II, Paragraph B

Original Manatee County Land Development Code Tree Protection; Sections 714.2.1, 714.2.2 and 714.8.7

River Wilderness Covenants (Tree Amendment) and Manatee County Tree Protection (714.2.1) state:

1. No person may remove, relocate or otherwise destroy any tree installed upon any Site or otherwise allow, authorize or assist in the removal, relocation or destruction of such tree, without first obtaining (i) approval of the ARC in the manner required by the Declaration, and (ii) a tree removal permit issued by Manatee County as required, in accordance with the then existing provisions of the Manatee County Land Development Code, consistently applied. This does not prohibit removal of unprotected species.
2. Any tree removed from a Site must be replaced with the same size and type of tree as originally planted on the site, whether such removal resulted from (i) authorizations and permits issued by ARC and Manatee County as required, or (ii) replacement of a diseased or dead tree.

The following guidelines have been established to clarify and consistently apply the above regulations.

1. All trees 2 ½ in diameter or greater must have River Wilderness ARC approval to be removed and replaced within 60 days from River Wilderness Recommended Tree List (below).
2. These guidelines apply to canopy trees and not to palm trees or invasive species.
3. These guidelines are applicable to all River Wilderness Lots, common areas and the River Wilderness Country Club. Manatee Tree Protective Code applies to all homes built after 1991.
4. Number of trees required as replacement per size of existing tree removed.

Manatee County Land Development Code 714.8.7 for RW		
Existing Tree Size	Required Replacement Caliper Minimum	Ratio of Replacement Trees to Removed Trees
4"—15" D.B.H.	2 ½ to 3" for RW	1:1
16"—30" D.B.H.	2 ½ to 3" for RW	2:1 changed to 1:1*
Over 30" D.B.H.	2 ½ to 3" for RW	3:1 changed to 1:1*
D.B.H. – Diameter at Breast Height		
*ARC approved 11-19-2019 - one for one tree replacement		

5. The River Wilderness Recommended Tree List (below) was developed with the recommendations and input of the Manatee County Building and Development Services Department and should be reviewed before choosing a tree.

RIVER WILDERNESS RECOMMENDED TREE LIST 08/14/2018

Approved (Canopy) Shade Trees Minimum Size 2 1/2 to 3 inch in Diameter

Canopy Shade Trees	** Understory Canopy Trees **
Drake Elm - <i>Ulmus parvifolia</i>	Crape Myrtle (Queens) Dahoon (Eagleston Holly)
Live Oak - <i>Quercus Virginiana</i>	Florida Pivet- Tree Form Only
Live Oak Cathedral <i>Quercus virginiana</i> Sdln	Ligustrum Japonica- Tree Form Only
Live Oak Highrise - <i>Quercus virginiana</i> Qvita	Golden/ Yellow Trumpet- Tree Form Only
Hickory - <i>Carya ovata</i> or <i>carya laciniosa</i>	Loquat- Tree Form Only
Red Maple - <i>Acer rubrum</i>	Podocarpus - Tree Form Only
Black Gum Tupelo - <i>Nyssa sylvatica</i>	
Southern Magnolia - <i>Magnolia grandiflora</i>	
Southern Red Cedar <i>Junipcrus virginiana</i>	
Sweetgum - <i>Liquidambar styraciflua</i>	
Sycamore - <i>Platanus occidentalis</i>	
Winded Elm - <i>Ulmus Alata</i>	

**** Understory Canopy Trees to be used only when small space is available**

Approved Accent Trees

Cape Myrtle - <i>Lagerstroemia indica</i> - Multi	
Holly (Dahoon) - <i>flex cassinc</i>	
Holly (Eagleston) - <i>Ilex eagleston</i>	
Holly (Nellie Stevens),- <i>Ilex Nellis stevens</i>	
LoblollyBay - <i>Gordonia lasianthus</i>	
Ligustrum - <i>Ligustrunj japonica</i> or <i>lucidum</i>	
Magmolia spp.	

Approved Palm Trees

Sabal/Cabbage - <i>Sapal palmetto</i>	
Bizmarck - <i>Bizmarckia nobilis</i>	
Canary Island Date - <i>Phoenix canaricnsis</i>	
Chinese Fan <i>Livistonia citinensis</i>	
Date - <i>Phoenix dactylifera</i>	
Pindo- <i>Butia capitata</i>	
Ribbon - <i>Livistona decipiens</i>	
Senegal Date - <i>Phoenix reclinata</i>	
Wild Date - <i>Phoenix sylvestor</i>	

RIVER WILDERNESS NOT RECOMMENDED TREES

(Canopy) Shade Tree Name	Reason of Disapproval
Black Olive - <i>Bucida bucceras</i>	Severe Freeze Damage
Laurel Oak - <i>Quercus laurifolia</i>	Brittle, Short life & subject to Blow Down
Shumard Oak - <i>Quercus shumardii</i>	Proved none Reliable

Accent Trees Name	Reason of Disapproval
Frangipani - <i>Plurneria rubia</i>	Freeze Death - Not Hardy
Jacaranda - <i>Jacaranda mimosifolia</i>	Brittle & Splits Easily
Orchid Tree - <i>Bauhinia spp.</i>	Very Brittle
Poinciana - <i>Delonix regia</i>	Freeze Death - Not Hardy
Red Bay - <i>Persea borbonia</i>	Stuck down by Fungus Oisease
Tabeburia - <i>spp.</i>	Freeze Death - Not Hardy
Yellow Poinciana - <i>Peltophorum pterocarpum</i>	Freeze Death - Not Hardy

Palm Tree Name	Reason of Disapproval
Everglades Palm - <i>Paurotis wriahtii</i>	Freeze Death - Not Hardy
Queen Palm - <i>Syagrus romanzoffiana</i>	Chlorotic (Yellow Fonds), Intense Maintenance
Royal Palm (All varieties)	VeryTall- Frost Damage

THIS LIST WAS LAST UPDATED 08/14/2018

**Original Manatee County
Tree Protection, Section 714**

http://manateecounty.elaws.us/code/ladeco_ch7_sec714

§ 714. Tree Protection

714.1. Purpose and Intent. It is the intent of the Section to regulate the removal, replacement, or relocation of trees within the County in order to preserve, protect and enhance valuable natural resources. By limiting the removal of existing trees, the need for open space irrigation will be reduced. Existing environmentally suitable native vegetation, plant communities shall be protected and incorporated into the site plan, wherever feasible.

714.2. Application.

714.2.1. Generally. No person may remove, relocate, or otherwise destroy any tree or cause, allow, authorize, or assist in the removal, relocation or destruction of same without first obtaining a tree removal permit from the Planning Director. The application shall be reviewed by the Planning Department.

714.2.2. Exempted Activities.

Single Family. Trees located on any single family, manufactured home subdivision, manufactured home park, or duplex lot shall be exempt. This does not include any areas of common ownership within parks or subdivisions.

714.2.2.1. Trees on Agricultural or Mining Property. Any tree located on land zoned and utilized for agricultural or mining purposes, provided the removal, replacement, relocation, or destruction solely occurs in conjunction with the use of the premises for agricultural or mining purposes and does not occur in anticipation of development. All such clearing is subject to County, State and Local rules, protecting wetlands and other restricted habitat.

714.2.2.2. Trees in Approved Developments. Any trees which are located in a subdivision, development, or other project which has received County approval, provided that the removal, replacement, relocation or destruction of trees are specifically shown on the subdivision, development, or project plan approval, and provided that such plans have been reviewed and approved by the Planning Director.

714.2.2.3. Trees on Commercial Horticultural Premises. All trees and plants which are grown by a licensed plant or tree nursery or tree farm, provided that such trees and plants are planted and grown on the licensee's premises for the sale or intended sale to the general public in the ordinary course of business.

714.2.2.4. Trees Damaged by Natural Calamities. All trees which have been destroyed or substantially damaged by hurricane or other natural calamity or Act of God.

714.2.2.4.1. The tree must be so damaged that it would require unreasonable costs to save it, or would be a hazard to human life or property.

714.2.2.5. Septic Fields. Area for septic fields [which] are required by the Manatee County/HRS/Public Health Unit.

714.2.2.6. Trees within the Rights-of-Way. Trees within the rights-of-way for the purpose of improvements, roadway widening, sidewalks and utility installations.

714.2.2.7. Unprotected Species. The prohibition in paragraph 714.2.1, above, shall not apply to the following unprotected species, and their removal from the site is encouraged. See also Section 605 and 715.4(E).

However, if such species were originally installed as part of the required landscaping for a project, such trees may not be removed without a tree removal permit. The fee for this permit shall not apply to these cases.

- (a) *Broussonetia Papyrifera* (Paper Mulberry);
- (b) Casuarianaceae (Australian Pine);
- (c) *Enterolobium cyclocarpum* (Ear Tree);
- (d) *Melaleuca Leueadendra* (Punk);
- (e) *Melia Azedarach* (Chinaberry Tree);
- (f) *Schinus Terebinthinifolius* (Brazilian Pepper);
- (g) Rutaceae, Citrus (Citrus Tree);
- (h) *Cinnamomum camphora* (Camphor Tree);
- (i) *Cupaniopsis anacardioides* (Carrotwood);
- (j) *Ficus microcarpa* (Laurel fig);
- (k) *Mimosa pigra* (Catclaw Mimosa);
- (l) *Sapium sebiferum* (Chinese Tallow Tree);
- (m) *Dalbergia sissoo* (Indian Rosewood).

714.2.2.8. Normal Maintenance of Required Trees. Maintenance and pruning of required canopy or understory trees is allowed in order to remove diseased or dead wood, remove hazardous limbs, remove or trim limbs that would obstruct vehicular movement, utility lines, or pedestrian traffic, remove double leaders or crossing limbs, or maintain or correct the size of the tree. Trimming to provide proper clearance from overhead utility lines shall be allowed, however, it shall not be allowed to significantly alter the natural form of the tree. Pruning that grossly alters the natural characteristic form of that species is not permitted, (eg. topiary sculptures or "lollipop" shapes).

714.2.2.9. Degenerative Disease. Removal of trees with terminal degenerative diseases shall be exempt from Section 714.

714.3. Procedure.

714.3.1. Submission of Application. A person desiring a tree removal permit shall submit a written application to the Planning Director. The application shall include the following information:

714.3.1.1. Site Plan. An overall site plan including the approximate shape and dimensions of the lot or parcel of land, together with existing and proposed driveways, structures and improvements.

714.3.1.2. Required Generalized Tree Inventory. Each application for a tree removal permit shall be accompanied by a generalized tree inventory which shall consist of:

714.3.1.2.1. Generalized Tree Inventory. A generalized tree and vegetation inventory showing the approximate location and extent of vegetation and trees upon the site shall be provided no later than preliminary or final site plan (when a preliminary is not required). The inventory shall be based upon the most current available information. For non-residential and multi-family development, the inventory may be in the form of an aerial or a field survey, and shall be accompanied by photographs illustrating typical areas of trees. The generalized tree and vegetation inventory shall be prepared at the same scale as the site development plans or in some other manner which clearly illustrates the relationships between the areas of trees and the proposed site improvements. This inventory shall also include specifications regarding both the common and botanical names of all protected species.

714.3.1.3. Location of Trees to be Removed. The location of all trees which are proposed to be removed, replaced, or relocated including the limits of clearing. Subject to the Planning Director's approval, the limits of clearing shall generally include:

714.3.1.3.1. Streets. Street Construction and necessary slope construction.

714.3.1.3.2. Easements. Public service or utility easements and rights-of-way. This shall include area of utility line installation with any construction easements necessary for such installation and easements for maintenance access. These easements shall not be cleared prior to actual line installation.

714.3.1.3.3. Building Area. Building roof coverage and ancillary structure such as patios and porches plus twenty-five (25) feet on all sides for construction activity.

714.3.1.3.4. Circulation, Recreation Areas. Driveways, walkways, parking lots, and other land area necessary to the installation of the proposed development or use. Other necessary land area may include area for gardens, tennis courts, swimming pools, and lawn areas and other related structures or uses.

714.3.1.3.5. Septic Fields. Area for septic fields as required by the HRS/Manatee County Public Health Unit.

714.3.1.3.6. Sediment Basins. Only those trees within the area necessary for construction of the sediment basin, the area in which sediment will collect, and the area necessary for construction and maintenance of the basin shall be cleared of trees. Configuration of the basin shall utilize natural terrain as much as possible to minimize tree removal.

714.3.1.3.7. Detention and Retention Basin. Only those trees within the area necessary for construction of the detention pond and the area necessary for construction and maintenance of the pond shall utilize natural terrain as much as possible to minimize tree removal.

714.3.1.3.8. Visibility Triangle: See Section 713.

714.3.1.4. Protective Measures. A statement explaining how any trees proposed for relocation and replanting as part of a development will be protected during the construction of the development. A plan detail indicating the location of protective barriers around trees to be protected shall also be provided.

714.3.2. Separate Tree Removal Permit Required. When tree removal is occasioned by any proposed development that requires a site plan, preliminary subdivision plat, or final subdivision plat, the approved plan or plat shall constitute a tree removal permit. In all other cases, the application for a tree removal permit shall be on a form provided by the Planning Director.

714.3.3. Review of Application. Upon receipt of the complete permit application, the Planning Director shall review the application and visit the site of the proposed development. Within a reasonable period of time, the Planning Director shall either approve or deny the application, and shall furnish the applicant a written statement of the reasons for any denial. Where tree removal is considered in conjunction with site plan or subdivision plat review, the Planning Director shall forward a copy of the written statement to the appropriate decision-making body with the application for subdivision or conditional use approval and any other relevant materials.

714.3.4. Tree Replacement Funds. Any payments collected under Section 714.8 shall be deposited into the Tree Protection Trust Fund and are expressly designated for the replacement of trees or those incidental materials, i.e. mulch, irrigation mechanisms, required for those items to be planted. These funds shall not however be used for the support of existing trees. The application shall be accompanied by a tree removal permit fee in an amount to be prescribed by the Board.

714.4. Trust Fund. There is hereby created a Tree Protection Trust Fund for the purpose of insuring that the funds collected pursuant to this Section are utilized as provided in Section 714.3.4, Tree Replacement Funds.

714.5. Expenditure. Any funds not expended or encumbered for planning, acquisition or planting by the end of the calendar quarter immediately following seven (7) years from the date of payment, shall be returned to the feepayer with interest at the passbook savings rate.

714.6. Extension. The Board may by resolution, extend the date by which funds must be refunded by up to three (3) years. Such an extension shall be made upon a finding that within three (3) years, the planned replacement activities will be completed.

714.7. Standards. The Planning Director shall not approve a tree removal permit application unless the plan will destroy no more existing trees than is reasonably necessary to achieve the proposed development. The Planning Director shall consider in this regard:

714.7.1. Necessity. The extent to which the actual or intended use of the property is in accordance with the regulations of the zoning district in which the property is located and requires the destruction of trees.

714.7.2. Outstanding Quality of Tree or Plant Communities. The desirability of preserving a tree or plant community by reason of its size, age, or some other outstanding quality, such as uniqueness, habitat importance, rarity or status as a landmark or species specimen.

714.7.3. Environmental Effects. The extent to which the area would be subject to increased water runoff and other environmental degradation due to the removal of the trees.

714.7.4. Development Density. The desirability of preserving tree cover and associated vegetation in densely developed areas.

714.7.5. Grade Changes. The effect that changes in the natural grade will have on the remaining trees and vegetation.

714.7.6. Signage. The visibility of an existing or proposed sign shall not serve as a reason for approval of a tree removal permit.

714.8. Tree Replacement Alternatives. The Planning Director shall condition a tree removal permit for all projects upon the replacement of the removed trees at a one-to-one ratio. Cash payment to Manatee County may be made in lieu of replacement. The Planning Director may accept a combination of either of the above methods for compliance with this Section.

714.8.1. The Planning Director shall also have the option of considering replacement of the trees on adjacent sites, if there is no reasonable replacement alternative on-site and the adjacent site is of sufficient size to support the placement of such trees. If such an alternative is chosen, the applicant must provide a landscaping plan for the replacement trees as well as a written maintenance agreement for the trees. All trees planted off-site shall be at least Florida Quality No. 1 nursery stock. If the adjacent site is single-owner occupied, then it shall be the responsibility of that owner to maintain all of the replacement trees in perpetuity and replace any trees that succumb to disease or death. If the adjacent site is the property of a homeowner's association or other group ownership, the association or group shall maintain all replacement trees in perpetuity and replace any trees that succumb to disease or death.

714.8.2. In recognition of overall tree canopy, an alternative method of tree mitigation may be considered by the Planning Director, if it is demonstrated that the lost canopy will be replaced within ten (10) years. This alternative shall require a greater quantity of replacement trees while allowing smaller replacement sizes.

714.8.3. The Planning Director shall reserve the right to increase the size of the replacement tree under unusual circumstances, such as age of tree, type of tree, rarity and historical significance, or the removal of a tree without a permit.

714.8.4. When trees are to be replaced on individual residential or nonresidential lots within a subdivision, the Planning Director may condition the approval of any preliminary plat to allow for replacement at the time of construction on each lot. The placement of trees on an individual lot shall be a prerequisite for an occupancy permit. Notice of replacement trees on each lot must be placed within the homeowner's documents or association documents approved with each final plat. Within this notice the developer shall

state that the replacement trees may not be removed unless diseased or dead, in which case, they must be replaced with the same size and type of tree as originally planted on the lot.

714.8.5. Approval of replacement trees to meet the Residential Street Tree requirements of Section 715.3.4 shall be dependent upon the site design, lot size, existing trees and building envelopes to determine whether the trees will have sufficient room to thrive. The majority of replacement trees within such projects shall be located within common areas within the project such as greenbelts, roadway buffers and screening buffers. The Planning Director shall have the authority to approve an alternative replacement method.

714.8.6. When cash in lieu payments are made, the amount of cash payments will be in the manner established by the Board and shall include all material and labor costs, as well as those costs associated with the administration of this program. Payment for Tree Replacement shall be paid prior to the issuance of any Building Permits for the project. Utilization of the cash-in-lieu funds shall be determined by the Board of County Commissioners for amounts greater than five thousand dollars (\$5,000.00) or the Planning Director for amounts of less than five thousand dollars (\$5,000.00). The funds shall be used for landscaping in affordable housing projects (meeting the criteria of Chapter 13), county park projects, street and entranceway beautification programs, and other public projects.

714.8.7. When trees are removed with an approved tree removal permit, such trees shall be replaced as follows:

Manatee County Land Development Code 714.8.7		
Existing Tree Size	Required Replacement Caliper Minimum	Ratio of Replacement Trees to Removed Trees
4"—15" D.B.H.	3"	1:1
16"—30" D.B.H.	5"	2:1
Over 30" D.B.H.	7"	3:1
D.B.H. – Diameter at Breast Height		

714.8.8. Replacement Tree Standards. All replacement trees shall be at least Florida Quality No. 1 nursery stock.

714.8.9. Incentive for Tree Preservation. In order to help preserve significant trees (twenty-six (26) inches dbh or greater), an applicant may be given credit towards fulfilling the tree portion of screening, buffering and parking lot landscaping requirements. All such trees shall be in good health. Those trees between twenty-six (26) and thirty-five (35) inches dbh, shall equal three (3) required trees; over thirty-six (36) inches dbh shall equal five (5) required trees. A condition of use of this incentive is total protection of the tree during construction. Should the tree die as a result of construction practices or post-construction stress, as determined by the Planning Director, the replacement trees shall be planted or assurances are made for future planting at the appropriate time, within thirty (30) days of the determination of the death of the tree.

714.9. Identification of Preserved Trees. Upon approval of a tree removal permit, the location and species or common name of individual trees to be preserved, shall be entered upon the Final Site Plan, Final Development Plan or Preliminary Subdivision Plat. The applicant shall also identify and conspicuously mark any such tree or plant groups to be preserved.

714.10. Protection During Development. During any land development activity, protective measures shall be taken throughout the entire construction stage to prevent the destruction or damage of all trees to be retained on the site. Specific protective measures shall be outlined by the applicant in writing and to accompany the permit application.

714.11. Time Period of Permits. Tree removal permits shall continue in force for the same period of time as the development order approval, and shall be subject to the same extension privileges.

714.12. Building Permits. Building Permits do not authorize the removal of trees unless specifically approved as such by the Planning Director. When a tree removal permit is required, a Building Permit shall

not be issued until a tree removal permit is issued, or prior tree removal approval has been granted as part of a development order.

714.13. Violations. In addition to any penalties which may be imposed by Chapter 12, any tree removed, relocated, or damaged in violation of this Section shall be replaced with trees of comparable characteristics. Each removal of a tree shall be deemed a separate offense. The Planning Director shall determine the location and number of such replacement trees which will immediately achieve a shade area comparable to that which existed prior to the violation. No Certificate of Occupancy shall be issued until complete replacement occurs. In no instance shall replacement trees be smaller than the minimum requirements set out in Section 714.8.7, nor shall the replacement of such trees exempt the violator from the provisions of Chapter 12: Enforcement.