

Sec. 656.1204. - Applicability.

The provisions of Subpart B shall apply to all protected trees within the City, unless specifically exempted herein. All requirements in Article 25 of the Charter of the City of Jacksonville, *Minimum Standards for Tree Protection, Conservation and Mitigation During Development* shall be met *in addition* to the provisions of this Subpart B.

(Ord. 91-59-148, § 1; Ord. 93-718-395, § 1; Ord. 2008-910-E, § 1)

Sec. 656.1205. - Removal of protected trees prohibited; exceptions.

- (a) No person, organization, society, association or corporation, or any agent or representative thereof, directly or indirectly, shall cut down, remove, damage or destroy, or shall authorize the cutting down, removal, damage, or destruction of any protected tree, as defined in Section 656.1203(bb) hereof, or shall commit any act or authorize the commission of any act which physically removes a protected tree or causes a tree to die, such as damage inflicted upon the root system by heavy machinery, chemicals or paving, changing the natural grade above the root system and tree damage permitting infection or pest infestation, without first having obtained a permit as herein provided.
- (b) The following protected trees are exempted from the provisions of subsection (a). Where an exemption is claimed, an applicant must obtain a permit pursuant to Section 656.1206 for a fee as found in www.coj.net/fees, and provide supporting evidence that the applicant is entitled to the exemption, as requested by the Building Inspection Division:
 - (1) Any tree located on an individual lot on which either a single-family dwelling or a mobile home is located, provided:
 - A. The lot is not capable of further subdivision under applicable law; and
 - B. The single-family dwelling or mobile home is:
 - (i) Occupied and used for residential purposes, or
 - (ii) Capable of occupancy in compliance with applicable law.
 - (2) Any tree of the palm family, other than the Cabbage Palm (*Sabal palmetto*), or the pine family, other than the Long Leaf Pine (*Pinus palustris*) located on that portion of a lot which is more than 20 feet from a street right-of-way (including an approved private street or other access easement), or more than ten feet from any other property line.
 - (3) Any tree located in botanical gardens or in state-approved or government nurseries and groves which are grown for sale or public purpose.
 - (4) Any tree that poses imminent danger to the public health, welfare or safety, and requires immediate removal without delay. In such instances, verbal authorization to remove a protected tree may be given by the Chief.
 - (5) Any tree in a land area located within a City drainage easement, a City drainage right-of-way, and/or a City access way right-of-way (excluding road rights-of-way, or road easements requiring drainage) where trees must be removed, as reasonably necessary, to provide access to, or maintenance and/or construction of, the City's drainage ditches and drainage-related facilities.

- (6) Any tree located within an existing or proposed street right-of-way and/or easement shown on a set of approved construction plans for required improvements within an approved single-family or mobile home subdivision platted or is in the process of being platted and has received preliminary sketch plan approval pursuant to Section 656.1203 Ordinance Code (Code of Subdivision Regulations), may be removed during construction of such improvements.
 - (7) Any tree other than an exceptional specimen tree, as defined in Section 656.1203(bb)(3), located on property that has been subdivided for residential development by a plat of record or that is in the process of being platted and as received preliminary sketch plan approval pursuant to Section 654.108, Ordinance Code. Property with trees that are exempt under this subsection (8) must comply with the buffer requirements for residential subdivisions of Section 656.1222.
 - (8) The following nuisance and invasive species of trees: Pond Willow (*Salix caroliniana*), Chinese Tallow (*Sapium sebiferum*), Paper Mulberry (*Broussonetia papyrifera*), Chinaberry (*Melia azedarach*), Camphor (*Cinnamomum camphora*), Wax Myrtle (*Myrica cerifera*), Golden Raintree (*Koelreuteria bipinnata*) and Cherry Laurel (*Prunus caroliniana*).
 - (9) Any tree located on an individual cemetery plot and removed at the request and with the consent of an individual cemetery plot owner; provided, however, that this exemption shall not apply to the expansion of existing cemeteries. As used in this subsection, *cemetery plot* shall mean a lot in any cemetery designated and maintained for the interment of a human body, or bodies or remains thereof and for no other purpose. As used in this subsection, *cemetery plot owner* shall mean a person, or his representative, in whose name a plot is listed in a cemetery organization's office as the owner of the exclusive right of sepulture; or who holds from a cemetery organization, a certificate of ownership or other instrument of conveyance of the exclusive right of sepulture in a particular plot in the organization's cemetery.
 - (10) Any tree determined to be a danger to traffic flow or traffic site visibility by the City Traffic Engineer.
 - (11) Any tree determined to be in a required fire break by the Chief of Mowing and Landscape Maintenance Division.
- (c) During the period of an emergency such as a hurricane, flood or any other natural disaster, the requirements of this Section may be temporarily waived by the Chief, so that private or public work to restore order in the city will in no way be hampered.
 - (d) Exceptional specimen trees, except for exceptional specimen trees located on property upon which either a single-family dwelling or a mobile home is located and/or is exempt under Section 656.1205(b)(1), or which is in use for bona fide agricultural operations and is exempt under Section 656.1205(b)(2), or which is exempt under Section 656.1205(b)(7), are specifically excluded from the exemptions listed hereinabove, and a permit is required to be obtained prior to any cutting down or removal of the trees. In addition, the provisions of Section 656.1206(h) concerning replacement of protected trees shall also apply to the cutting down or removal of exceptional specimen trees with a replacement of one inch to one inch removed, however, no replacement is required for exceptional specimen trees which have been determined by the Chief to be diseased or dying. Under no circumstances whatsoever shall this subsection be construed to require the owner of a single-family dwelling or mobile home which is occupied or capable of occupancy to obtain a permit to remove any protected tree.
 - (e) This Section shall not apply to the removal of trees (1) on land classified as agricultural land pursuant to Section 193.461, Florida Statutes, if the removal of such trees is regulated through Best Management Practice criteria formally adopted into the Florida Administrative Code by the Florida Department of Agriculture and Consumer Services; or (2) land for use as a salt water mitigation bank pursuant to a permit issued by the St.

Johns River Water Management District, the Florida Department of Environmental Protection, or the United States Army Corps of Engineers, so long as no horizontal or vertical hardscape construction improvements are made on any portion thereof.

(Ord. 91-59-148, § 1; Ord. 93-718-395, § 1; Ord. 95-212-154, § 1; Ord. 1999-152-E, § 1; Ord. 1999-775-E, § 2; Ord. 2001-161-E, § 1; Ord. 2001-1327-E, § 1; Ord. 2008-910-E, § 1; Ord. 2013-590-E, § 1; Ord. 2013-209-E, § 17; Ord. 2016-705-E, § 1; Ord. 2017-665-E, § 29)

Sec. 656.1206. - Permit procedure and criteria for tree removal, relocation and replacement of protected trees.

- (a) Permits for site clearing and the removal or relocation of a protected tree shall be obtained by filing an application with the Chief. Approval of the application and issuance of a permit by the Chief shall be required prior to any land clearing or grubbing, prior to any disturbance of the root system or site development, or prior to the occurrence of any changes to an existing developed site. The site shall be inspected to insure compliance with the approved site plan prior to any additional permits being issued. Applications for site clearing and tree removal or relocation shall include the following:
 - (1) A site plan, at a scale which clearly illustrates the requirements of this Part, showing the lot configuration; the location and identification of existing and proposed improvements, if any, including structures, water retention areas, paving, grade changes, utilities, easements, and street rights-of-way or approved private streets; the location and identity by botanical or common name and DBH, of protected trees to be removed, relocated or retained and of preserved understory vegetation; and preserve areas. In areas where groups of trees are to remain and no soil is to be disturbed, the tree group may be identified by general species; and
 - (2) A statement explaining why the protected tree is proposed to be removed or relocated.
- (b) An application for a permit for the removal or relocation of a protected tree shall be reviewed by the Chief and a decision shall be made thereon within ten working days after receipt of such application; provided, however, that if the Chief determines that a comprehensive study of a development plan or public improvement program is needed to assure the protection of a significant number of trees, he shall refer the application to the Planning and Development Department for a detailed study and recommendation and shall advise the applicant of this action within the ten day period hereinabove specified. The Planning and Development Department shall provide the Chief and the applicant with its report within ten working days after referral of the application.
- (c) Any person, organization, society, association, corporation or agent thereof who intends to trim, prune, cut, disturb roots, or to destroy or remove any tree from a public easement, public property or right-of-way shall obtain a permit from the Chief. All work shall be conducted in strict accordance with the National Arborist Association Pruning Standards for Shade Trees, the American National Standards for Tree Care Operations (ANSI #Z133.1), and any additional conditions of such permit.
- (d) Any department or division of the City of Jacksonville, any independent authority or agency of the City of Jacksonville, and any provider or utility service may obtain an annual permit to trim or remove trees for maintenance purposes, for the installation of new facilities, or to maintain proper clearance on existing facilities upon the submission of an operational manual, procedures and/or standards for such work within the service area of the utility, which manual, procedures and/or standards shall be subject to the review and approval of the Chief. A separate annual permit shall be obtained for areas designated as scenic and historic corridors established pursuant to Section 656.1219, which permit shall include the procedures, standards and

conditions imposed by council, if any, in the ordinance designating the corridor. All work shall be conducted in strict accordance with the permit; provided, however, that the requirements of this Section shall not restrict in any manner whatsoever or prohibit any provider of utility service from taking any action to trim or remove trees which is reasonably required in order to restore utility service. The permit holder shall make every reasonable effort to minimize the impact on the environment, including consideration of alternatives for the provision of service.

- (e) The approval, conditional approval or denial by the Building Inspection Division of an application for a tree removal permit, as required by this Section, shall be based on the following criteria:
- (1) The extent to which tree removal decreases aesthetic and environmental quality, land values and physical benefits to human beings;
 - (2) The necessity to remove trees which pose a safety hazard to pedestrian or vehicular traffic or threaten to cause disruption to public services;
 - (3) The necessity to remove trees which pose a safety hazard to buildings;
 - (4) The necessity to remove diseased trees or trees weakened by age, weather, storm, fire or acts of God or which are likely to cause injury or damage to people, buildings or other improvements on a lot or parcel of land;
 - (5) The extent to which tree removal is likely to result in damage to the property of other owners, public or private, including damage to lakes, ponds, streams or rivers through runoff or erosion;
 - (6) The proposed landscaping, including plans whereby the applicant has planted or will plant perennial vegetative cover to replace those trees which are proposed to be cleared;
 - (7) The topography of the land and the effect of tree removal on erosion, soil retention and the diversion or increased flow of surface water;
 - (8) The necessity to remove trees in order to construct proposed improvements to allow access around the proposed structure for construction equipment, access to the building site for construction equipment, or essential grade changes;
 - (9) The land use and natural vegetative ground coverage of surrounding property;
 - (10) The extent of any damage or hardship to the applicant resulting from a denial of the requested permit;
 - (11) The species and size of the tree proposed for removal;
 - (12) Whether the tree to be removed is an exceptional specimen tree;
 - (13) Whether the tree is located within a scenic and historic corridor; and
 - (14) Areas to be converted to mitigated wetlands as required by federal, state and local agencies which regulate wetlands.
- (f) Any relocation of trees in compliance with this Subpart shall be performed in accordance with accepted industry practices, including watering to insure survival of transplanted stock.
- (g) Protected trees identified for removal on the site clearing or tree removal permit application shall be replaced with new planted trees, unprotected trees or transplanted trees. Protected live oaks (*quercus virginiana*) removed shall be replaced only with live oaks. The total caliper inches of replacement live oaks shall equal the total caliper inches of protected live oaks removed; for other removed protected trees, the total caliper inches of replacement trees shall equal one-third the total caliper inches removed. A waiver of this replacement requirement may be approved by the Chief if the tree removal was for the purpose of removing dead, diseased, dying or trees of similar condition or for trees whose roots are causing severe damage, as

determined in the sole discretion of the Chief, to an adjacent structure. No waiver shall be allowed for the removal of any tree whose continued existence was necessary for compliance with the City's Landscape Code, for receiving credit for conservation mitigation, or for any tree which was planted as part of a mitigation requirement. The total caliper inches for replacement of exceptional specimen trees shall equal the total caliper inches of exceptional specimen trees removed pursuant to Section 656.1205(d). When there are more than an average of two exceptional specimen trees per acre removed on a particular site, the required mitigation shall be increased by twice the minimum caliper of all exceptional specimen trees lost in order to compensate for that loss. If multi-trunked trees are used as replacement trees, then the total caliper of the four largest trunks shall equal the replacement caliper. Palms may be used only to replace protected palms removed. Replacement species used shall be approved by the Chief. Additionally, the following provisions shall apply:

- (1) No replacement will be required for protected trees which are determined by the Chief to be dead or deteriorated as a result of age, insects, disease, storm, fire, lightning or other acts of nature. Trees that require trimming or other simple forms of abatement to remain viable shall not be exempt pursuant to this subsection. An exemption pursuant to this subsection requires the following:
 - (i) Sufficient documentation supporting the exemption in a form approved by the Chief; and
 - (ii) Verification of the dead or deteriorated status of the tree by a Certified Arborist; and
 - (iii) Evaluation of the tree based upon the current site conditions and viability of the tree, not considering potential impacts of construction.
- (2) New replacement trees shall meet the minimum standards for landscape materials established by Section 656.1211(e).
- (3) Existing trees, two-inch caliper or greater, which are not protected trees but which are preserved or transplanted, except those trees located in preserve areas, may be utilized to satisfy tree replacement requirements, subject to the conditions stated in Sections 656.1207 and 656.1213(b) and (d).
- (4) New, preserved nonprotected, or transplanted exceptional specimen trees or live oaks used as replacement for removed exceptional specimen trees or protected live oaks shall be four-inch caliper or greater.
- (5) Existing protected trees which would otherwise be removed from the site because of development, may be utilized to satisfy tree replacement requirements if transplanted to a location on the site which meets the requirements of Sections 656.1207 and 656.1213(b) and (d).
- (6) If protected tree removal is associated with new development, the name, size and location of all replacement trees shall be shown on the required landscape plan and such trees shall be installed prior to the final building inspection. Otherwise, the name, size and location of the required replacement trees shall be shown on the site plan required for site clearing or tree removal and such trees shall be installed within the time limit stated on the site clearing or tree removal permit.
- (7) Existing nonprotected trees, transplanted trees and new trees used for replacement become protected trees.
- (8) Replacement trees shall be maintained pursuant to the requirements of Section 656.1212.
- (9) Replacement trees may be used to satisfy the tree requirements of Subpart C, landscaping requirements.
- (10) A tree used for replacement shall be at least ten feet from any other tree planted, transplanted or preserved. Greater spacing may be required, based on a tree survey, to ensure survivorship of a tree.
- (11) Replacement trees shall be suitable to the site at which they are planted as determined by the Chief.

- (12) Replacement trees for protected trees larger than 11.5 inches DBH shall be shade trees as required by Article 25 of the Charter of the City of Jacksonville, *Minimum Standards for Tree Protection, Conservation and Mitigation During Development*.
- (13) Trees planted within an area of an onsite wetland created for mitigation of wetlands removed or relocated on the same site may be used satisfy the requirements of this Subpart.
- (14) If the applicant demonstrates to the satisfaction of the Chief that the site cannot accommodate the total number of required replacement trees as a result of insufficient planting area, the applicant shall provide a monetary contribution to the Tree Protection and Related Expenses Trust Fund. The amount of such contribution shall be determined as follows: For every two caliper inches, or fraction thereof, of replacement trees which would otherwise be required, the contribution shall be equal to the retail value of a planted two-inch caliper nursery grown shade tree. The retail value shall be calculated by taking the average of the median current wholesale price, published by North Florida nurseries, for a container grown, and a balled and burlapped two-inch caliper live oak, multiplied by two. The retail value shall be recalculated and adjusted annually on October first.
- (15) As an alternative to providing a monetary contribution to the Tree Protection and Related Expenses Trust Fund, an applicant may, under the conditions set forth in this subsection, provide mitigation in certain off-site locations. In such cases, the applicant shall install the required replacement trees at another location (the "alternative site") which is not a residential lot and which meets all of the following criteria:
- (i) The alternative site must be located within the same planning district as the applicant's property, as such districts are defined in the City's Comprehensive Plan approved by the City Council. Applicants are encouraged to coordinate with, and seek input from, Planning District Citizen Planning and Advisory Committees in selecting alternative sites for tree mitigation. A location in the proximity of the applicant's property is preferred;
 - (ii) The alternative site must be owned or leased by the applicant or by a governmental entity which has authorized the installation of the trees, or is privately owned and nonconforming with respect to the requirements of this Part and the owner has consented to the use of his property as an alternative site; provided, however, that governmental entities providing off-site mitigation may do so only on property owned or leased by a governmental entity;
 - (iii) The installation of the trees at the alternative site will provide aesthetic benefits to many of the same citizens which would have benefited from the installation of the landscaping on the applicant's property; and
 - (iv) The alternative site is determined by the Landscape Architect to be a location where the trees are likely to survive.

If the applicant elects to install the required trees at the alternative site, the applicant must submit plans for the alternative site for review and approval of the Landscape Architect prior to the issuance of the site clearing permit. Any trees planted at the alternative site pursuant to this Section shall be in addition to, and not in lieu of, the requirements of this Chapter. Irrigation and maintenance of the replacement trees in accordance with the requirements of this Chapter are the responsibility of the applicant, and failure to comply with these requirements is a violation of this Chapter.

- (16) As a further alternative to providing a monetary contribution to the Tree Protection and Related Expenses Trust Fund, an applicant may, in limited circumstances and under the conditions set forth in this subsection, provide mitigation of the required mitigation amount through conveyance of certain lands to

the City of Jacksonville. A conveyance of land in lieu of a monetary contribution to the Tree Protection and Related Expenses Trust Fund, must meet all of the following criteria:

- (i) The property to be conveyed to the City must be property the City is willing to accept pursuant to this subsection and maintain as open space;
- (ii) The property to be conveyed to the City must be of a type and in a condition that will result in the preservation of open space and provide the opportunity for substantial tree planting and increase in tree canopy on the site;
- (iii) The value of the property being conveyed to the City, as established in an appraisal acceptable to the City's Real Estate Division or the land value of which was established in an eminent domain proceeding within the previous five years, must equal or exceed the amount of the monetary contribution which would be made under this section;
- (iv) The property being conveyed to the City must be free from environmental contamination, as established in environmental audits and studies acceptable to the City;
- (v) The property being conveyed to the City must have clear title and be free and clear of any outstanding liens or unpaid taxes;
- (vi) Prior to conveyance to the City the owner shall furnish to the City, at no expense to the City, a landscape plan acceptable to the City for the City's use in planting trees on the property and a boundary survey of the property prepared by a licensed surveyor;
- (vii) Prior to conveyance to the City the property shall have been rezoned to Conservation (CSV) zoning district;
- (viii) The property being conveyed to the City must be located within a one-mile radius of the property from which protected trees were removed creating the requirement for mitigation under this section;
- (ix) The property being conveyed to the City shall be contiguous to a City right-of-way or City-owned land;
- (x) The property being conveyed to the City should be a minimum size of approximately 1.25 acres;
- (xi) The property being conveyed to the City shall not be land protected from development by other restrictions, such as subdivision buffer areas or St. Johns River Water Management District conservation easements;
- (xii) The property being conveyed to the City shall be free from easements which would limit tree planting such as overhead or underground utility, drainage or access easement which would, in the opinion of the City, unduly limit the ability of the City to plant trees on the site; and
- (xiii) The land being conveyed to the City shall be upland areas suitable for tree planting.

In the event that any portion of this subsection is declared invalid, unenforceable, unconstitutional or void, or is permanently enjoined, or if the existence of this subsection would result in any other portion of Chapter 656, Part 12, or Article 25 of the Charter being held to be invalid, unenforceable, unconstitutional or void, then thereafter no conveyance of land as mitigation shall be accepted pursuant to this subsection and all mitigation requirements shall be satisfied as otherwise allowed in this section.

Sec. 656.1207. - Tree protection during development.

All protected trees, preserved understory vegetation, and trees retained for tree credit, pursuant to Section 656.1213 hereunder, shall be protected from injury during any land clearing or construction in the following manner:

- (a) Prior to any land clearing operations, tree limbs which interfere with construction shall be removed and temporary barriers shall be installed around all trees and other understory vegetation to remain within the limits of land clearing or construction and shall remain until the completion of the work. The temporary barrier shall be at least three feet high, shall be placed at least six feet away from the base of any tree, shall include at least 50 percent of the area under the dripline of any protected tree or trees retained for tree credit pursuant to Section 656.1213, and the barrier shall consist of either a wood fence with two by four posts placed a maximum of eight feet apart, with a two by four minimum top rail, or a temporary wire mesh fence, or other similar barrier which will limit access to the protected area. Tree protection shall comply with the guidelines in the Tree Protection Guide for Builders and Developers by the Florida Division of Forestry and any other reasonable requirements deemed appropriate by the Chief to implement this Part.
- (b) No materials, trailers, equipment or chemicals shall be stored, operated dumped, buried or burned within the protected areas. No attachment, wires (other than protective guy wires), signs or permits shall be attached to a protected tree.
- (c) When removing branches from protected trees to clear for construction or pruning to restore the natural shape of the entire tree, the guidelines in the National Arborist Association Pruning Standards for Shade Trees and the American National Standards for Tree Care Operations (ANSI #Z133.1) shall be followed. Protected trees shall be pruned to remove dead or damaged limbs and to restore this natural shape and fertilized as necessary to compensate for any loss of roots and to stimulate root growth. Any damage to tree crowns or root systems shall be repaired immediately after damage occurs.

(Ord. 91-59-148, § 1; Ord. 93-718-395, § 1)

Sec. 656.1208. - Enforcement; violations and penalties; stopping work, correction of violation.

- (a) *Notice of violations.* Whenever the Chief has evidence that a violation of any provision of this Subpart has been or is being committed, he shall issue a written Notice of Violation or order upon the person or persons responsible for the violation, which may include, but not be limited to, the property owner, permit holder, and contractor (if known and if different person(s) or entities) by personal service or certified mail or, if these forms of service are ineffective, by posting a copy in a conspicuous place on the premises where the violation has occurred or is occurring. The notice shall briefly set forth the general nature of the violation and specify the manner and that the violation shall be corrected within 90 days from the date of the Notice of Violation, which may be extended by the Chief for good cause.
- (b) *Stopping work.* Whenever, in the opinion of the Chief, by reason of a violation of any provision of this Subpart, the continuance of work is contrary to the public welfare, he shall order, in writing, all further work to be stopped and may require suspension of all work until the violation is corrected.
- (c) *Correction of violation.* A violation of this Subpart shall be corrected as follows:
 - (1) When there is work done without a permit, the property owner shall pay the permit fee due the City for the work, which permit fee shall be twice the amount of the regular permit fee specified in Section 320.409(a)(15) which would have been due had the permit been obtained prior to commencing work, and

by replacing the protected trees removed without a permit with new planted trees, unprotected trees or transplanted trees. The total caliper inches of the replacement trees shall equal twice the amount of total caliper inches required to be planted, pursuant to Section 656.1206(h). The property owner shall also submit a tree replanting plan showing how the damage caused to the site by the violation will be mitigated shall be subject to the review and approval of the Chief and the trees installed within the time limit stated on the permit. Replacement trees shall meet the requirements of Section 656.1206, except that the minimum caliper of all replacement trees shall be four inches, and the plan shall meet the requirements of Section 656.1217, to the extent applicable; or

- (2) When there is no permit, the violator shall pay the permit fee due the City for the work, which permit fee shall be twice the amount of the regular permit fee specified in Section 320.408(a)(15), which would have been due had the permit been obtained prior to commencing work, and by making a contribution to the Tree Protection and Related Expenses Trust Fund to compensate for each replacement tree which is not planted. The amount of such contribution shall be twice the required amount, pursuant to the formula described in Section 656.1206(h)(14). For each subsequent violation by the property owner, the amount of such contribution shall be triple the required amount, pursuant to the formula described in Section 656.1206(h)(14).
- (3) When there has been a permit issued for the proposed work, any property owner who removes more caliper inches than the number of caliper inches approved in their permit as identified in the final landscape inspection is required to pay triple the required amount for those caliper inches that were not permitted pursuant to the formula described in Section 656.1206(h)(14).
- (4) If the site has been cleared and the trees have been removed from the site so that the Chief is unable to determine with reasonable certainty the number of protected trees removed in violation of this Subpart, the violation shall be corrected by making a contribution to the Tree Protection and Related Expenses Trust Fund equal to \$50,000 per acre, or fraction thereof per each acre, of land cleared, which fine shall be assessed by the Chief. In the event the Chief assesses such a fine, the Chief shall provide the following information in the Notice of Violation, pursuant to subsection (a), to the property owner: the amount of acres presumed to be impacted by the site clearing without a permit, the total fine assessed, and any other information or documents the Chief relied upon to calculate the fine ("preliminary assessment of fine"). The property owner shall have the ability to appeal the preliminary assessment of fine as follows:
 - (i) The property owner has the burden of proving the preliminary assessment of fine should be reduced. The property owner shall have 30 days from the receipt of the Notice of Violation to dispute the assessment. The notice of dispute shall be in writing and sent to the Chief via electronic mail and by either hand delivery or certified mail, and contain the following information (if applicable): evidence of the species of trees removed, the total caliper inches removed, the application of any exception or exemption to the trees removed as provided for in this Part, and any other relevant information used to dispute the preliminary assessment of fine. All evidence relied upon to support the dispute, including expert analysis and geographical data, shall also be provided in the notice of dispute.
 - (ii) The Chief shall have 30 days to respond to the notice of dispute. The response shall be in writing and shall be sent to the property owner, or his agent, via electronic mail and either hand delivery or certified mail, and shall provide the Final Assessment of Fine based on one of the following determinations: (1) the Chief rejects the basis for the notice of dispute and applies the preliminary assessment of fine as the Final Assessment of Fine; or (2) the Chief accepts all or a portion of the

notice of dispute and adjusts the preliminary assessment of the fine, an explanation of the adjustment shall be provided. When the Chief accepts all or a portion of the notice of dispute, the minimum contribution shall be \$5000 for each acre plus twice the contribution amount required for those caliper inches that were removed pursuant to the formula described in Section 656.1206(h) (14).

- (iii) The property owner may appeal the Final Assessment of Fine to the Planning Commission pursuant to the provisions of Section 656.135. For the purposes of this subsection, the use of the term "Director" shall mean "Chief" and "written interpretation" shall mean "Final Assessment of Fine" as such terms are used in Section 656.135.
 - (iv) In the event the property owner does not dispute the preliminary assessment of fine within the 30 days as provided for in subparagraph (i), the preliminary assessment of fine shall be the Final Assessment of Fine and shall be deemed the final action of the city and shall be subjected to no further appeal.
- (5) In the event the contractor responsible for the site clearing in violation of this subpart is different than the property owner, in addition to the penalties listed in subparagraphs (2) and (3), above, the contractor shall also be subject to a civil penalty of \$1,000.00 for the first violation, \$2,000.00 for the second violation, and \$3,000.00 for every subsequent violation. Each parcel where the contractor conducts site clearing work without a permit shall be considered a separate violation.
- (6) The contribution assessed under this subsection shall be payable to the Tax Collector within seven days after the non-appealable Final Order is issued. All amounts received by the City pursuant to this subsection shall be deposited into the Tree Protection and Related Expenses Trust Fund established under Section 111.760, except that the Building and Inspection Division shall receive up to \$1,000 per acre for the enforcement of this subsection. No work shall continue on the site until the tree replanting plan has been approved or the contribution or fine has been collected.
- (d) *Appeals.* A person aggrieved by an administrative order, determination or decision of the Chief may appeal the order, determination or decision to the Planning Commission pursuant to the provisions of Section 656.135.
- (e) *Violation and penalties.* A person who violates any provision of this Subpart, and fails to correct the violation as provided herein shall, upon conviction thereof, be guilty of a class D offense and punished accordingly. A separate offense shall be deemed to have been committed for each tree removed, damaged or destroyed contrary to the provisions of this Subpart.
- (f) *Judicial remedy.* In addition to other remedies and notwithstanding the existence of an adequate remedy at law, the City of Jacksonville may seek injunctive relief in the Circuit Court to enforce the provisions of this Subpart. The City shall be entitled to reasonable attorney's fees and costs, including appellate fees and costs in an action where the City is successful in obtaining affirmative relief.

(Ord. 91-59-148, § 1; Ord. 93-718-395, § 1; Ord. 2006-422-E, § 124; Ord. 2017-396-E, § 1)