WHEREAS, the Tree Trust Fund was established in 2004 to facilitate the compliance of tree replacement requirements according to Chapter 17 of Code of the City of Miami, as amended ("City Code"), to facilitate the receipt of equitable contributions for replacement trees, to enhance the tree canopy coverage throughout the City of Miami ("City"), and to restore the loss of tree canopy cover in the City; and

WHEREAS, it is in the best interests of the City to provide that certain specified expenditures from the Tree Trust Fund be expended on providing education to City residents who are residential homeowners on the measures that are required for the planting, removal, and maintenance of trees within the City; and

WHEREAS, it is additionally in the best interests of the City to provide that certain specified expenditures from the Tree Trust Fund be expended to assist the Departments of Resilience and Public Works and Parks and Recreation in the maintenance of trees on public properties throughout the City; and

WHEREAS, the City Commission wishes to repeal and replace Chapter 62, Article X of the City Code and place the Article within Chapter 17 for ease of reference and procedure with the aforementioned amendments; and

WHEREAS, this Ordinance shall establish a new Special Revenue Project titled "Tree Operating Account" and shall authorize the City Manager to designate the Director of Resilience and Public Works Department to expend funds from this account to maintain and manage trees, shrubs, and plants on public property; and

WHEREAS, half of the funds in the Tree Trust Fund, at the time of the adoption of this Ordinance shall be transferred into the new "Tree Operating Account" for management and maintenance expenditures of the tree canopy; and

WHEREAS, it is also in the best interest of the City to clarify several definitions within Chapter 17 and simplify the requirements necessary to obtain a tree permit for all residents and business entities within the City to promote development, maintenance and management of the tree canopy within the City;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. Chapter 62, Article X of the City Code, titled "Planning and Zoning/Tree Trust Fund," is hereby repealed in its entirety:[1]

"CHAPTER 62

PLANNING AND ZONING

[1] Words and/or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

* * *

ARTICLE X. ~~– TREE TRUST FUND~~ RESERVED.

~~Sec. 62-301. Intent.~~

~~It is intended that the "Tree Trust Fund" be established in order to facilitate the compliance of tree replacement requirements according to chapter 17 of this Code, to facilitate the receipt of equitable contributions for replacement trees, to enhance the tree canopy coverage throughout the city and to restore the loss of tree canopy cover in the city. Expenditures from this trust fund shall require authorization by the city manager, or his/her designee, upon written recommendations from the directors of the departments of planning and zoning, code enforcement, and/or resilience and public works.~~

~~Sec. 62-302. Trust fund payments.~~

~~Payments into the trust funds shall include, but shall not be limited to, monies collected pursuant to this chapter and chapter 17 of this Code.~~

~~Sec. 62-303. -Established.~~

~~(a) There is hereby established a trust fund to be entitled the "Tree Trust Fund" (the "trust fund") to be maintained and administered by the city, into which funds shall be deposited and from which funds shall be withdrawn pursuant to this article to pay the procurement of replacement trees to restore the loss of tree canopy cover in the city and to enhance tree canopy coverage and shrubs through means which may include, but are not limited to the following activities by the city or its authorized agents:~~

~~(1) Not less than 80 percent of the trust fund shall be expended on tree replacement and restoration and enhancement of tree canopy coverage throughout the city during each fiscal year. These funds may be used for periodic distribution of saplings and shrubs to the public to enhance tree canopy coverage in the city. However, if the city manager, or his/her designee, determines that there are insufficient reserves in the trust fund to implement a viable tree replacement program, funds may be carried over to the next fiscal year.~~

~~(2) Not more than ten percent of the trust fund shall be expended on activities directly related to three replacement and restoration and enhancement of tree canopy coverage throughout the city during each fiscal year, including, but not limited to, survey work, site inventory and analysis, landscape architectural design services, inspection services for new plantings, and other related project expenses and incidentals.~~

~~(3) Not more than ten percent of the trust fund shall be expended during each fiscal year to provide training for code inspectors and for administrative costs directly related to the notice requirements of chapter 17 of this Code. Said training shall be directly related to the implementation of chapter 17 of this Code, including, but not limited to, training to properly identify the different tree and palm species and to properly grade the quality standards for new trees and palms, including the knowledge of proper planting, pruning, and landscape maintenance techniques.~~

~~(b) Allowable expenditures undertaken pursuant to this chapter may be made by the city manager, or his/her designee, except that any trust fund expenditures in excess of $50,000.00 will require approval by the city commission.~~

~~(c) It is the intent of this article that prior to the expenditure of funds for the above listed items by the city manager, that due consideration is given to written recommendations from the directors of the departments of planning and zoning and/or resilience and public works.~~

~~Sec. 62-304. Funds made available; financial report.~~

~~(a) Funds deposited in the trust fund shall be made available to the city manager for implementation purposes; all disbursals of trust fund monies shall be made by the city manager, or his/her designee, in accordance with this chapter and chapter 17 of this Code, and after due consideration is given to the written recommendations of the directors of the departments of planning and zoning, code enforcement, and/or resilience and public works.~~

~~(b) A financial report on trust fund receipts and expenditures shall be prepared annually at the close of the fiscal year by the city manager or his/her designee and presented to the city commission.~~

* * *

Section 3. Chapter 17 of the City Code, title “Environmental Preservation”, is amended in the following particulars:[2]

“CHAPTER 17

TREE ~~ENVIRONMENTAL~~ PRESERVATION AND PROTECTION

* * *

ARTICLE I. TREE PROTECTION IN GENERAL

Sec. 17-1. Intent and purpose.

The intent of this article is to protect, preserve and restore the tree canopy within the City of Miami ("city") by regulating and providing guidelines, controls, and standards for the removal, relocation, pruning, planting and trimming of trees.

The purpose of this article is to assure that the design, ~~and~~ construction, and maintenance of all development activity or public right-of-way is executed in a manner consistent with the preservation and restoration of existing trees ~~to the greatest extent possible~~.

Sec. 17-2. Definitions.

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[2] Words and/or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

* * *

Certified arborist: Also known as a "ISA Certified Arborist." A person who has successfully completed the testing program administered by the International Society of Arboriculture (ISA) to be an ISA Certified Arborist, with a current valid certification number. ~~This person must be trained and knowledgeable in all aspects of arboriculture as relevant to the conditions of trees within the city.~~

Certified tree ~~arborist~~ report: A report issued by an ISA certified arborist or a Florida licensed Landscape Architect that, at a minimum, shall contain data for each existing tree in the applicable tree boundary survey as follows: species; DBH as defined herein; height; canopy spread; health condition; opinions regarding current condition; recommended tree activity, if any; and color photographs of trees which shall depict sufficient detail to support the opinion of the ISA certified arborist or Florida licensed Landscape Architect.

* * *

~~*Construction:* See "Development activity."~~

* * *

Department: The D~~d~~epartment of Building or to which the City Manager has assigned or designated the responsibility ~~planning and zoning, which is responsible~~ for review and issuance of tree permits.

Development/Construction activity: ~~The carrying out of~~ A~~a~~ny new building construction, remodeling, addition and/or demolition that requires issuance of a permit by the city~~, including without limitation building construction, additions (including but not limited to additions of carports, pools, decks, fences, driveways, and parking lots), modifications, demolition, or making any material alteration to the use or exterior appearance of any structure.~~

* * *

Fatally diseased tree: A tree that has been identified with a disease that is not curable by known industry standard pest control treatments or has visible damage from a disease and may include secondary stresses related to a disease. A fatally diseased tree ~~may be~~ is considered a high-risk tree.

* * *

High-risk trees: A tree that is in a location where risks to persons or property exist, including trees that have an identifiable part or parts with a high potential for failing and a high potential to strike a foreseeable target resulting in significant consequences within a short time-frame. ~~The determination of w~~ Whether a tree is a high-risk tree shall be reviewed and accepted or rejected ~~made~~ by the department upon assessing all the supporting information, ~~risks.~~ regarding potential tree failure. Such information may be provided by an ISA Certified Arborist or a Florida licensed Landscape Architect.

Homestead property/resident: A property that receives a homestead exemption or person(s) living in a residence that receives homestead exemption as determined and listed by

the Miami-Dade County Property Appraiser's Office. This exemption must be current to be applicable.

~~*Homestead resident:* A person or persons living in a residence that receive a homestead exemption as determined and listed by the Miami-Dade County Property Appraiser's Office. This exemption must be current to be applicable.~~

* * *

Intervenor: A person whose interests in the proceeding are adversely affected in a manner greater than those of the general public. A person shall be entitled to the presumption of Intervenor status if the person (1) owns the subject property; ~~or~~ (2) owns property abutting the subject property~~;~~ or (3) ~~Furthermore, a person shall be entitled to intervenor status if the person~~ owns property within a 500-foot radius from the subject property ~~but is not the property owner or abutting property owner~~ and has a particular interest in the application that is different in kind and degree than the general public. Abutting shall mean to reach or touch; to touch; to touch at the end or be contiguous with; join at a border or boundary; terminate on; and includes properties across a street or alley. A person recognized by the decision-making body, including the historic and environmental preservation board and the city commission, as an intervenor may make a presentation, call and examine witnesses, conduct cross-examinations of witnesses, introduce exhibits, rebut evidence, and make final arguments in the order as decided by the chair of the body to effectuate orderly and efficient proceedings.

* * *

Public right-of-way: See "Right-of-way" as defined in section ~~55-1~~ 54-1 of the City Code, as amended.

* * *

~~*Registered* *Li*~~ *andscape architect:* A person who holds a license to practice landscape architecture in Florida as authorized by F.S. ch. 481.

* * *

~~*Special master:* The person(s) appointed pursuant to chapter 2, article X. For purposes of this article, the special master shall be synonymous with and have all powers of the code enforcement board. The terms may be used interchangeably.~~

* * *

Specimen tree*:* A tree that is equal to or larger than eighteen (18) inches DBH. Trees that do not qualify as specimen trees are ~~palms, non-native Ficus species, or any non-native fruit tree cultivated as a grove tree for commercial production of fruit~~:

(1) All single and multi-trunk trees in the palm family, except Acoelorrhaphe wrightii and Phoenix reclinata when these two species have a minimum overall height of fifteen (15) feet.

(2) All trees listed in Section 24-49(4)(f) of the Miami-Dade County Code.

(3) All non-native Ficus species.

(4) Plants in the Araucariaceae family.

(5) Any non-native fruit tree cultivated as a grove tree for commercial production of fruit.

(6) Non-native fruit trees that are cultivated or grown for the specific purpose of producing edible fruit, including, but not limited to, mangos, avocados or species of citrus.

* * *

Tree abuse: An ~~A~~action that damages a tree and/or parts of a tree ~~Generally, any tree activity beyond or against those described in the ANSI A-300 Standards. Examples of tree abuse include but are not limited to hatracking, spiking, lions tailing, tree removal (without a permit), pruning more than 25 percent of a tree canopy in one annual growing season, root pruning that destabilizes a tree, girdling, damaging and/or removing sections of bark, and damaging and/or removing sections of cambium.~~ as follows:

(1) Damage inflicted upon any part of a tree, including the root system, by machinery, construction equipment, cambium layer penetration, storage of materials, soil compaction, excavation, chemical application or spillage, or change to the natural grade.

(2) Hatracking.

(3) Girdling or bark removal of more than one-third (⅓) of the tree diameter.

(4) Tears and splitting of limb ends or peeling and stripping of bark resulting from improper pruning techniques not in accordance with the current ANSI A300 Standards.

Tree activity: Any ~~W~~work ~~t~~that ~~will~~ affects a tree on a property which includes tree removal, tree relocation, tree pruning more than twenty-five (25) percent, and/or root pruning more than ten (10) percent or trimming of a root more than one (1) inch in diameter.

Tree activity after-the-fact: Tree activity and/or tree abuse, as defined within this Section, without the benefit of a prior required permit.

* * *

Tree ~~protection~~ bond: A monetary bond that guarantees the protection of specific trees ~~be protected~~ as set forth in the landscape plan ~~and will not be harmed by the~~ during the construction project and, if harmed, the party will reimburse for the loss. A performance bond guarantees and insures that the planting, replacement and/or relocation is completed as required by the tree permit. If performance is not met as set forth in the landscape plan, the bond shall provide for reimbursement of the loss.

Tree protection zone ("TPZ"): An area defined by an ISA certified arborist or a Florida licensed Landscape Architect surrounding the trunk of a tree to protect roots and soil within at least the CRZ area. This area is necessary to protect tree health and stability. The TPZ is an area within which certain activities are prohibited or restricted, especially during construction or development activity.

* * *

Tree value: The appraised monetary replacement value for a tree as calculated by an ISA certified arborist or a Florida licensed Landscape Architect~~, who is specially trained and experienced as a tree and landscape appraiser. Appraisals~~ The appraised replacement shall

utilize the trunk formula method within the replacement cost approach of valuation as described in the most recent edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Tree value may be used to determine reasonable mitigation requirements for specimen trees removed without a permit and/or specimen trees effectively destroyed during construction, including trees permitted to be preserved or remain on site that are subsequently effectively destroyed, and may be used as an alternative to the replacement tree table for mitigation requirements for specimen trees being permitted for removal, as approved by the department.

* * *

Sec. 17-3. Applicability.

(a) The provisions of this article shall apply to all public or private property within the city, unless expressly exempted by law.

(b) All tree activity as defined in this chapter requires a tree permit as described herein.

(c) Any tree activity ~~removal~~ on a public right-of-way or on property owned by the city shall require a permit from the Department ~~resilience and public works department~~, unless it is deemed in writing by the director of the Ddepartment or his/her designee that such permit will be an undue burden for the city and is not in the best interest of the public health, safety and welfare of the city.

(d) All trees located within environmental preservation districts shall also be subject to the requirements of article 2 of this chapter.

(e) All trees located within natural forest communities shall also be subject to the requirements of article 3 of Chapter 24 of the Miami-Dade County Code, as amended.

(f) All mangrove trees and any tree located upon land which is wetlands as defined in F.S. § 373.019, as amended from time to time, shall also be subject to the permitting requirements of article 2 of Chapter 24 of the Miami-Dade County Code, as amended.

(g) *Power lines*. Trees shall be placed safely clear of power lines. New tree plantings shall be arranged in order to avoid future encroachments into the power line safety zone. The Florida Power and Light, Right Tree, Right Place guidelines for tree size and required distances from power lines should be referenced. There shall be no less than a 10-foot safety buffer zone provided along the power lines where no trees may be planted, nor their mature canopy allowed to encroach.

Sec. 17-4. Tree permit applications, requirements, review, and fees.

(a) *Permit, when required.*

(1) All tree activity and/or tree abuse requires a permit ~~No person, agent or representative thereof, directly or indirectly, shall engage in tree activity on any property described in section 17-3 of this article without first obtaining a tree permit and~~ unless exempted by section 17-11 of this article.

(2) A tree permit is required for tree pruning or trimming of more than 25 percent of the canopy, crown, or living foliage of a tree or any other pruning that is not in accordance with the ANSI A-300 Standards ~~shall~~ may be allowed upon presentation of a letter to the city~~, to be validated~~ by an ISA certified arborist or a Florida licensed Landscape Architect. ~~,with justification as to why the ANSI A-300 Standards are not applicable.~~

(3) A tree permit is not required for tree pruning or trimming of less than 25 percent of the canopy, crown, or living foliage of a tree or other pruning if in accordance with the ANSI A-300 Standards, except for trees which are growing on the public right-of-way. ~~Pruning of the canopy, crown or living foliage of a tree, in strict accordance with ANSI A-300 Standards shall be allowed without a permit. A certified arborist letter or other documentation may be required.~~

(4) Any removal of roots ~~one inch in diameter or greater and/or the removal of~~ more than ten (10) percent of a tree's root system shall require a tree pruning permit. ~~No root pruning shall be allowed beyond the aforementioned limits anywhere in the city without a tree pruning permit except for the pruning of roots when essential for any repairs or improvements performed by or for the department of resilience and public works or capital improvements.~~

~~(5) 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 zoning department has determined that a tree permit or tree pruning permit is not required or that a valid tree permit or tree pruning permit has been issued in accordance with this article.~~

(b) *Application requirements.* The property owner or authorized agent shall submit a tree permit application to the department on the department's tree permit application form. A tree permit application shall include those supporting documents and plans as required by section (c) below. ~~the department to provide adequate description and information to verify the intended tree activity, site conditions, proposed construction and work specifications in order to issue a tree permit.~~

(c) *Plan requirements.* Plans submitted with a tree permit application shall comply with the following:

(1) Commercial properties. ~~Plans for a tree permit in conjunction with new construction, including but not limited to, demolition, additions, pools and decks shall include the following:~~

* * *

d. When applicable, an assessment on all existing trees with tree specifications. For trees and/or palms proposed for relocation, tree relocation specifications in accordance with ANSI A300 Standards shall be provided to the department. Additional information such as the TPZ, CRZ, tree protection and/or tree pruning recommendations may be required for trees to remain and/or be relocated. The assessment shall be prepared by an ISA Certified Arborist or licensed Florida Landscape Architect.

(2) Single-family or duplex properties. ~~Plans for a tree permit in conjunction with new construction, including but not limited to demolition, additions, and pools, and decks shall include the following:~~

~~a. A site plan drawn to scale, or existing property survey prepared by the owner or the owner's representative, 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.~~ A drawing(s) prepared by the property owner or the property owner's representative displaying the following information and said drawings may be limited to the area of proposed development activity within the building permit, as follows:

i. the location of all trees and palms, their species and listing their height, spread and diameter, at breast height;

ii. a listing of all existing trees and palms and whether they are to remain, to be removed or to be relocated;

iii. the new locations of existing trees to be relocated on site;

iv. the location of all existing structures and all proposed new construction; and

v. the location of any overhead and/or underground utilities.

~~b. A tree disposition plan drawn to scale, prepared by the owner or the owner's representative, 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. When applicable, an assessment on all existing trees with tree specifications. For trees and/or palms proposed for relocation, tree relocation specifications in accordance with ANSI A300 Standards shall be provided to the department. Additional information such as the TPZ, CRZ, tree protection and/or tree pruning recommendations may be required for trees to remain and/or be relocated. The assessment shall be prepared by an ISA Certified Arborist.~~

(3) Plans for a tree permit unrelated to construction shall be drawn to scale using a site plan or existing property survey prepared by the owner or owner's authorized representative. Said drawings may be limited to the area of proposed development activity within the building permit. Except for single family and duplex properties as outlined in section 17-4(c)(2).

(4) All applications shall have a tree replacement plan/landscape plan drawn to scale that illustrates all proposed new construction, new locations of

relocated trees, and new replacement tree locations that complies with the requirements of section 17-6 of this Code, entitled "Tree replacement." 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, or by persons authorized by F.S. ch. 481, as amended, to prepare landscape plans or drawings. ~~Tree replacement plan/landscape plan submitted for a one-family or two-family dwellings (homestead property) may be in the form of a site plan drawn to scale prepared by the owner or the owner's representative.~~ Except for single family and duplex properties as outlined in section 17-4(c)(2).

(5) 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, except for properties which have homestead exemption, pursuant to F.S. § 196.075, and show proof thereof. In the event a bond is not feasible, the City may accept an irrevocable, unconditional letter of credit, naming the City as payee/beneficiary. The bond or letter of credit shall remain in effect for one year after the final certificate of occupancy or certificate of completion is issued. The city manager, after recommendation by the department and approval as to legal form by the office of the city attorney, may accept a covenant or other equivalent alternative to the tree ~~protection~~ bond requirement for construction or development of affordable housing projects which have been procured and/or funded by the city. All applicants requesting a covenant in lieu of a tree ~~protection~~ bond of an affordable housing project shall be bound by the terms of the covenant and shall record said covenant in the public records of Miami-Dade County after final acceptance and execution by the city.

(d) *Review of application.* Upon receipt of a completed tree permit application, the department shall review said application for compliance with the regulations as set forth in this article. Such review may include ~~a field inspection of the site and~~ referral of the application to other departments or agencies as necessary. The department shall take a reasonable amount of time to review and respond to applicants regarding tree permit applications, generally completing the initial review with ten (10) ~~15~~ business days and thereafter providing the intended decision notice upon final approval the tree permit application.

(e) *Notice.* Within 48 hours of issuing the intended decision for a tree permit, the department 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 proposed tree activity contained in the tree permit. The intended decision shall also be sent to the homeowners' associations registered with the City ~~neighborhood enhancement team ("NET")~~ in that area.

(f) *Issuance of permit.* If no appeal, in accordance with section 17-8 of this article, is received within ten (10) calendar days of the issuance of the intended decision, the tree permit shall be issued. The property owner or applicant shall ensure that the tree permit is displayed until the authorized work is completed.

(g) *Fees.* (Reserved) ~~Fees shall be as established pursuant to section 10-4 of this Code, as amended, "Building permit fee schedule." Applications from government agencies~~

~~for tree removals in areas dedicated to public use may, at the discretion of the city commission, be exempted from application fees and permit fees by resolution.~~

(h) *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. Alternatively, a compliance report/letter from an ISA Certified Arborist or licensed Florida Landscape Architect may be submitted to comply with the final inspection.

Sec. 17-5. Criteria and conditions for tree permits.

(a) *Criteria for* tree *permits.* A permit shall not be issued for tree activity, unless one of the following criteria exist: ~~In determining whether a tree permit should be issued, the department will consider the following criteria~~:

(1) ~~Whether~~ Tthe 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. The Building Official may permit the removal of trees outside the buildable area if it is demonstrated that such removal is essential to address life safety concerns or is directly necessary for the construction of the building as approved by the relevant permits. 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.

(2) ~~Whether~~ Tthe tree is in danger of falling; interferes with utility service as determined by a trained and experienced vegetation management or line clearance employee and/or person; creates unsafe vision clearance within a sight triangle or other legal right-of way; or materially impairs the structural integrity of an existing structure.

(3) The tree is in danger of undermining the integrity of adjoining property or structure, as determined by a ISA Certified Arborist, civil or structural engineer or architect licensed in the State of Florida. ~~Whether the tree is deemed a high-risk tree, fatally diseased or dead. The department may require supporting documentation confirming that the tree is a high-risk tree, fatally diseased or dead and cannot be abated by other means (i.e. pruning, trimming, fruit removal, removal of hazardous limbs); photographs of the tree(s) showing the conditions, signs or symptoms of the tree; any laboratory analysis or relevant scientific literature; and any other potential supporting documentation.~~

(4) ~~Whether~~ Tthe tree is a prohibited ~~tree~~ plant species. The department may require photographs of the tree(s) to support identification of the ~~tree~~ plant species. Prohibited ~~tree~~ plant species may be removed without the need for a replacement tree.

(5) ~~Whether~~ Tthe tree 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.

~~(6) Any other relevant criteria the department deems appropriate to consider in order to make a determination~~.

(b) *Conditions for issuance of a* tree *permit.* Any or all of the following conditions may be required by the department prior to issuance of a tree permit:

(1) The applicant may 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 adequate preservation of said tree(s) and design alterations within the scope and intent of the initially proposed plan.

(2) 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, ~~shall~~ may be relocated on or off-site within the commission district of the subject property. The applicant shall adhere to acceptable tree relocation standards and specifications. The department may require an ISA certified arborist or licensed Florida Landscape Architect 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 standards and specifications.

(3) 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 17-6.

(4) The department may require that the applicant provide a ~~written report~~ Certified Tree Report ~~from a certified arborist~~ by an ISA Certified Arborist or licensed Florida Landscape Architect before making any determinations in conjunction with this article. The department may also require monitoring by an ISA certified arborist or licensed Florida Landscape Architect during construction and/or tree activity requiring a tree permit to assure tree preservation.

Sec. 17-6. Tree replacement.

* * *

(c) Tree *replacement alternatives.*

(1) Replacement trees for homestead properties may comply with the following alternatives:

a. The removal of a non-specimen/non-native tree, a controlled tree species or a palm species shall be replaced with a native species at a one-to-one ratio upon written confirmation from the department. Replacement shall be of minimum replacement size at two inches DBH and 12 feet overall height.

b. Trees authorized for removal from lots that meet the minimum lot tree requirements, as described in this Chapter ~~Article 9 of~~ the ~~Miami 21~~ Code, shall be replaced at a one-to-one ratio, excluding specimen trees and trees effectively destroyed as a result of tree abuse.

c. Homestead properties that remove trees without a proper tree permit and not pursuant to Florida Statute must comply with the standard replacement tree quantities and requirements and may not avail themselves of these alternatives.

d. Hardship exemption. A property owner with homestead status ~~person~~ who meets ~~either of~~ any the following criteria may be able to apply for a waiver~~, full or partial~~, of the requirements for tree replacement on homestead property as set forth in this section and subsection 17-10(a)(2) of the City Code:

1. ~~Persons who q~~Qualifies~~y~~ for the senior citizen exemption pursuant to F.S. § 196.075.

2. ~~Persons whose t~~Total household income is below 80 percent of the area median income ("AMI") of Miami-Dade County as determined by the United States Department of Housing and Urban Development ("HUD") annually.

e. Tree gifting program. The gifting of trees by the city to property owners for the purpose of increasing the city's tree canopy, whenever possible, shall be conducted by the city manager or his designee in a manner that is in accordance with applicable laws.

~~(2) Prohibited tree species may be removed after obtaining a tree permit. Replacement trees are not required for the removal of any prohibited tree species as listed in current edition of the Miami-Dade County Prohibited Species List, except Lofty Fig (Ficus altissima) and Banyan Tree (Ficus benghalensis) which are subject to the provisions of this article. No fees will be assessed for tree removal of prohibited tree species.~~

(~~3~~2) The city manager or designee, after a recommendation of the department, may adjust the requirement of replacement trees for affordable housing developments that are procured by the city and/or funded by the city, regardless of the source of funds.

(d) *Tree quality.* After issuance of a tree permit, replacement trees in accordance with this section shall conform to, or exceed, the minimum standards for Florida Number One as provided in the most current edition of "Florida Grades and Standards for Nursery Plants, Part I and II," prepared by the state 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. Tree plantings shall comply with section 17-3(g).

(e) *Off-site replacement trees.* If the total number of replacement trees cannot be reasonably planted on the subject property, the applicant may contribute to the Tree

Trust Fund or enter into a written agreement with the city, as approved by the department, to plant the excess replacement trees on public property within the city commission district of the subject property. If the department confirms and verifies that replacement trees cannot be planted within the city commission district of the subject property due to capacity issues, the department may approve the planting of the excess replacement trees in other parts of the city. An alternative to off-site replacement is provided in subsection (f), relating to the contribution to the tree trust fund. Applicants may do both to the extent that they should proffer to do so.

(f) *Tree trust fund.* If the department determines that an applicant is not able to comply with the planting of replacement trees either on-site or off-site as required by this section, then the applicant shall make a financial contribution into the city's tree trust fund prior to issuance of the tree permit as follows:

(1) *Non-homestead properties.* The contribution shall be equal to $1,000.00 for each two-inch DBH tree required in accordance with Chart 17.6.1.1.

(2) *Homestead properties.* The contribution shall be equal to $500.00 for each two-inch DBH tree required in accordance with Chart 17.6.1.1 per calendar year. If additional tree permits are issued in the same calendar year, the subsequent contribution shall be equal to $1,000.00 for each two-inch DBH tree required in accordance with Chart 17.6.1.1.

(3) *Hardship exemption.* A property owner with homestead status ~~person~~ who meets ~~either~~ the criteria set forth in sub-section 17-6(c)(1)(d.) ~~of the following criteria~~ may be able to apply for a waiver, ~~full or partial,~~ of the requirements for the tree trust fund on homestead property as set forth in this section and subsection 17-10(a)(2) of the City Code.~~:~~

a. Persons who qualify for the senior citizen exemption pursuant to F.S. § 196.075.

b. Persons whose total household income is below 80 percent of the AMI of Miami-Dade County as determined by the HUD annually.

* * *

Sec. 17-7. Tree protection.

(a) *Tree protection during construction.* Trees shall be protected during construction activity as determined by the department through the use of protective barriers in accordance with the landscape manual. Trees that are to remain shall be clearly identified with tags. Tree protection barriers shall be maintained around the trees in accordance with the tree permit ~~protection plan approved by the department~~. Trees not affected by the construction activity do not require to comply with this section.

* * *

Sec. 17-8. Appeals, appellate fees.

(a) *Appeals to the historic and environmental preservation board ("HEPB").* The property owner, the applicant, or any aggrieved party having standing under state law, may appeal to the HEPB any decision of the department on matters relating to applications for tree permits, except for tree permits granted to the City of Miami and its limited agencies and instrumentalities, ~~departments of public works or capital improvements program,~~ by filing a written notice of appeal to the preservation officer, as established in chapter 23 of this Code, within ten (10) calendar days after the date of the intended decision. The notice of appeal shall include the decision appealed from and the reasons or grounds for the appeal. A person whose interests in the proceeding are adversely affected in a manner greater than those of the general public may request intervenor status as defined in this chapter. HEPB shall hear and consider all facts material to the appeal. HEPB may affirm, modify or reverse the decision of the department.

All appeals to the HEPB in accordance with this article shall be accompanied by a fee of $315.00, plus the cost for mailing and noticing for public hearing as indicated in section 62-22 of this Code, as applicable, except for appeals initiated by abutting property owners, as defined in the Miami 21 Code, for which a tree permit is sought and shall not be subject to any appeal fee. Appeals by a nonprofit corporation dedicated to conservation and protection of the natural and physical environment, or appeals by a homeowners association, as defined by F.S. ch. 720, as amended, which has one member who owns property within 500 feet of the subject property shall pay a reduced appeal fee of $157.50, plus the cost for mailing and noticing for public hearing as indicated in section 62-22 of this Code, as applicable.

(b) *Appeals to the city commission.* The property owner, the applicant, the department, or any aggrieved party having standing under state law, may appeal to the city commission any decision of the HEPB on matters relating to applications for tree permits by filing a written notice of appeal with the department of hearing boards within fifteen (15) calendar days after the date of the decision. The property owner, the applicant, or any aggrieved party having standing under state law may appeal to the city commission any decision by the department on matters relating to tree permit applications for the City of Miami and its limited agencies and instrumentalities, ~~departments of public works or capital improvements program,~~ or to their contractors, by filing a written notice of appeal with the department of hearing boards, within fifteen (15) calendar days after the date of the intended decision. The notice of appeal shall include the decision appealed from and the reasons or grounds for the appeal. The city commission 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 article, as amended. A person whose interests in the proceeding are adversely affected in a manner greater than those of the general public may request intervenor status as defined in this chapter. New evidence or materials may be received by the city commission where such evidence or materials are pertinent to a determination of the appeal. The city commission 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 city affected thereby or by any interested party having an interest in the appeal under state law and may, in conformity with this article and other applicable laws, rules and regulations, render its decision. The city commission 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, HEPB's decision, or may grant or deny the appeal of the tree permit issued to the City of Miami and its limited agencies and instrumentalities. ~~departments of public works or capital improvements.~~

All appeals to the city commission in accordance with this section shall be accompanied by a fee of $525.00, plus the cost for mailing and for noticing for the public hearing as indicated in section 62-22, as applicable. ~~$4.50 per mailed notice to the adjacent owners within a 500-foot radius.~~ A certified list of said adjacent owners shall be provided with all appeals. ~~However, no~~ Appeal fees shall be assessed for appeals initiated by abutting property owners, as defined by the Miami 21 Code, for which a tree permit is sought. An abutting property owner who appeals shall only pay for the cost of noticing and advertising as indicated in Section 62-20 and Section 62-22 of this Code. 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 F.S. ch. 720, as amended, which has one member who owns property within 500 feet of the subject property shall pay a reduced appeal fee of $262.50 plus the cost for mailing and for noticing for the public hearing as indicated in Section 62-22 of this Code, as applicable.

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

(c) *Notice.* All public hearings on appeals shall be noticed as indicated in section 62-20 of this Code. ~~follows. Notice of the time and place of the public hearing shall be mailed at least ten calendar days in advance of the hearing to the owner of the subject property and the owners of the adjacent properties. At least ten calendar days in advance of the hearing, a sign, in compliance with the provisions of Section 62-19 of this Code, shall be posted on the subject property.~~

* * *

Sec. 17-9. Enforcement.

(a) *Jurisdiction.* Code Compliance shall have jurisdiction for the proper and effective enforcement of this article, under chapter 2, article X entitled code enforcement. Code compliance shall have the right to inspect subject properties in accordance with the approved tree permit and the provisions of this article. The department shall work with code compliance to ensure effective enforcement of this article. Upon notification by code compliance and/or the department, the building official may immediately issue a stop work order for any work that contributes to the violation of this article. A stop work order shall remain in effect until ~~the violation has been corrected, including payment of all fines~~ steps to correct the violation have commenced to the satisfaction of the Building Official.

Sec. 17-10. Penalties, remedies cumulative.

(a) *Fine.* Any property that violates this article shall be subject to the following penalties:

* * *

(6) Hardship exemption. A property owner with homestead status ~~person~~ who meets ~~either of~~ the ~~following~~ criteria set forth in subsection 17-6(c)(1(d) may ~~be able to~~ apply for a waiver~~.~~ ~~, full or partial, of the requirements of this section:~~

~~a. Persons who qualify for the senior citizen exemption pursuant to F.S. § 196.075.~~

~~b. Persons whose total household income is below 80 percent of the AMI of Miami-Dade County as determined by the HUD annually.~~

(b) Tree *replacement required.* The planting of replacement trees shall be required, in addition to the monetary fines assessed pursuant to this article. The number of trees required as replacement for each tree that was removed without a permit is provided in Chart 17.10.2.1, the tree replacement chart, ~~-~~for trees removed without a permit, below. If the total number of trees required as replacement trees cannot be reasonably planted on the subject property, the applicant may make appropriate arrangements with the City to plant surplus trees in public spaces, public sites, in the public right-of-way and/or contribute to the city's tree trust fund in the amount provided in Chart 17.10.2.1.

* * *

~~(e) *Withholding of a new building permit.* Any tree activity in violation of this article shall constitute grounds for withholding new building permits directly related to said tree activity 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, as amended, naming the city as obligee. The bond shall be in the amount of ten percent of the construction cost or ten 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 city may accept an irrevocable, unconditional letter of credit, in the previously stated percentages, naming the city as payee.~~

(f) *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 tree permits have been finalized and violations of this article have been corrected, including the payment of all fines and the planting of all replacement trees required as mitigation, pursuant to this section.

* * *

Sec. 17-11. Exemptions.

The following are exempt from the provisions of this article:

(1) Any tree growing in a botanical garden, or a licensed plant or tree nursery business.

(2) When the city manager or designee determines, in writing, that tree permitting requirements will impede private or public work to restore city order after a Federal, State, County or City declared state of emergency, or as directed by a Resolution of the city commission.

(3) The immediate removal of any tree that presents a life safety issue, by demonstrating to the city, following the review and recommendation of the department, which may require photographic proof revised and/or other supporting documentation, to help determine the condition of the tree prior to its removal.

(4) Nothing in this article 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 A-300 Tree Care Standards and the guidelines illustrated in the landscape manual.

(5) Removal of trees within the property boundaries of homesteaded property which are not specimen trees and the property is one-half (½) acre or less in size (21,780 square feet.)

(6) Removal of trees for the construction of a new principal single-family residence for an owner-builder so long as the trees are not specimen and the property is one-half (½) acre or less in size (21,780 square feet.)

(7) Removal of any dead tree.

(8) Removal of any tree listed in Section 24-49(f) of the Miami-Dade County Code, as amended.

(9) 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, who 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. Specimen trees lost during an Act of God shall be replaced one to one.

(10) Removal of any tree by the City in accordance with the authority and administrative discretion provided in of this Chapter after assessing all the supporting information, regarding the tree(s) sought to be removed and such information may be provided by an ISA Certified Arborist or a Florida licensed Landscape Architect

(11) The City, under this Chapter, from trimming or pruning less than 25% on the public right-of-way, on City owned property or as part of a City public right-of-way project.

Secs. 17-12 – 17-25. Reserved.

ARTICLE II. ENVIRONMENTAL PRESERVATION DISTRICTS

* * *

Sec. 17-34. Criteria and conditions for tree removal.

(a) *Criteria for removal.* No permit shall be issued for tree removal from the site, unless one of the following conditions exists:

(1) The tree is located in the buildable area or yard area where a structure or improvement may be placed and unreasonably restricts the permitted use of the property. Trees located in the property frontage (within the setback) shall not be considered to be located within the building area or yard. Ingress and egress to garages are not considered the buildable area or yard.

(2) Trees on the public right-of-way shall not be considered for removal as a result of restriction to or from ingress or egress to the garages or parking on the site provided however, that if there is no other reasonable access to and from the structure or to the property from the public right-of-way, this requirement shall be waived by the City Manager or designee. ~~director of code enforcement when it relates to private property and/or by the director of public works when it relates to the public right-of-way.~~

* * *

(b) *Conditions for relocation and replacement.* As a condition to the granting of a tree removal permit, any or all of the following may be required:

* * *

(4) The historic and environmental preservation board may require that the applicant provide a written report from a certified arborist or a Florida licensed Landscape Architect before making any determinations in conjunction with this section. The historic and environmental preservation board may also require monitoring by a certified arborist or a Florida licensed Landscape Architect during construction to assure tree preservation.

* * *

Sec. 17-35. Tree protection and survival.

(a) During construction, all reasonable steps necessary to prevent the destruction or damaging of trees shall be taken. Trees destroyed or receiving major damage must be replaced by trees of equal environmental value as specified in section 17-6 before occupancy or use unless approval for their removal has been granted under permit.

(1) Trees that are to remain shall be clearly identified with tags.

(2) During construction, protective barriers shall be placed with a radius of ten (10) feet around the trees to remain in accordance with the landscape manual, unless a certified arborist or a Florida licensed Landscape Architect otherwise determines in writing that a smaller or larger protected area is acceptable for each tree, or an alternative tree protection method is recommended.

* * *

(c) Tree pruning/trimming. The pruning or trimming of any tree shall be done in accordance with ANSI A-300 Tree Care Standards and the guidelines illustrated in

the landscape manual, incorporated by reference herein. The practice known as "hatracking" or "topping" is not permitted and shall be considered a violation of this article. The historic and environmental preservation board may require that a certified arborist or a Florida licensed Landscape Architect monitoring of the trimming and provide the department with photographic documentation following the trimming. Any other tree abuse, or activity that can effectively destroy a tree, shall also be considered a violation of this article

* * *

Sec. 17-49. 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 article have been corrected, including the payment of all fines and the planting of all trees required as replacement tree mitigation, pursuant to this section.

* * *

ARTICLE III. - TREES AND SHRUBS ON PUBLIC PROPERTY

Sec. 17-71. Authority of director of public works.

The director of public works or his/her duly authorized representative, under the city manager or designee, shall have the general management and supervision of all trees, shrubs and plants embraced by this article.

Sec. 17-72. Permits – Required to prune, plant or remove from public land.

It shall be unlawful for any person to trim or prune any tree, shrub, or plant or to remove, any tree, shrub, or plant from any dedicated street, alley, highway, public right-of-way, or easement, public land lying between property lines on either side of a public street, highway, alley, public parking strip, public street, sidewalk or divider, public median strip or planting strip or other land or public place owned by the city without first applying for and obtaining a permit. from the director of public works or authorized representative.

Sec. 17-73. Same – Required to break, injure, etc., in public highway or park.

No person shall, without a written permit from the City Manager or designee director of public works, break, incline or in any way deface any living tree, shrub or vine in a public highway or park, or cut, disturb or interfere in any way with the roots of any tree, shrub or vine in a public highway or park.

Sec. 17-74. Same – Issuance; charges.

The City Manager or designee director of public works shall issue a written permit required by the two preceding sections to any applicant, without charge, when it is determined that the action proposed is necessary or desirable and not contrary to any city master plan for trees, shrubs or plants, and will be performed satisfactorily.

* * *

Sec. 17-78 – 17-100. Reserved.

ARTICLE IV. - TREE TRUST FUND

Sec. 17-101. Intent.

It is intended that the "Tree Trust Fund" (the “Trust Fund”) be established in order to facilitate the compliance of tree replacement requirements according to this Chapter of the Code, to facilitate the receipt of equitable contributions for replacement trees, to enhance the tree canopy coverage throughout the City and to restore the loss of tree canopy cover in the City. Expenditures from this trust fund shall require authorization by the City Manager, or his/her designee, upon written recommendations from the Directors of the Departments of Planning, Building, Code Compliance, Parks and Recreation, Resilience and Public Works, and/or any other Department as determined by the City Manager.

Sec. 17-102. Trust Fund Payments.

Payments into the Trust Fund shall include, but shall not be limited to, monies collected pursuant to this Chapter and under Chapter 2, Article X entitled Code Enforcement when fees and fines are assessed for violations of the Code; excluding, however, the administrative and regulatory costs of the Code Enforcement hearing.

Sec. 17-103. Established.

(a) There is hereby established a trust fund to be entitled the "Tree Trust Fund" (the “Trust Fund”) to be maintained and administered by the City, into which funds shall be deposited and from which funds shall be withdrawn pursuant to this Article to pay the procurement of replacement trees to restore the loss of tree canopy coverage in the City and to preserve and enhance tree canopy coverage and shrubs through means which may include, but are not limited to the following activities by the City or its authorized agents:

1. Establishment of a new Special Revenue Project titled “Tree Operating Account;” and shall authorize the City Manager to designate appropriate Departments that will expend funds from this account to maintain trees, shrubs, and plants on public property. Trees, shrubs and plants on public property shall mean for purposes of this Section any tree, shrub, or plant on any dedicated street, alley, highway, public right-of-way, or easement, public land lying between property lines on either side of a public street, highway, alley, public parking strip, public street, sidewalk or divider, public median strip, or planting strip or other land or public place owned by the City.

2. Not less than seventy (70%) percent of the Trust Fund shall be expended on tree replacement and restoration, enhancement, and the preservation of tree canopy coverage throughout the City during each fiscal year. These funds may be used for the purchase, installation, support, inventory, design, surveying, periodic distribution of saplings and shrubs, and other project related expenses including incidentals and personnel costs associated with tree replacement and restoration and enhancement of tree canopy coverage in the City. However, if the City

Manager or his/her designee, determines that there are insufficient reserves in the Trust Fund to implement a viable tree replacement program, funds may be carried over to the next fiscal year.

3. Not more than five (5%) percent of the Trust Fund shall be expended during each fiscal year to provide training for the Environmental Resource Specialists, Building Inspectors, Public Works Personnel entrusted with managing and maintaining the tree canopy, Code Inspectors, and for administrative costs directly related to the notice requirements of this Chapter. Said training shall be directly related to the implementation of this Chapter, including, but not limited to, training to properly identify the different tree and palm species and to properly grade the quality standards for new trees and palms, including the knowledge of proper planting, pruning, landscape maintenance techniques and best management practices.

4. Not more than five (5%) percent of the Trust Fund shall be expended for education sponsored or co-sponsored by the City for resident homeowners of the City, including, but not limited to cost effective and accepted methods of tree planting, tree maintenance, avoidance of infestations and pests that endanger trees, and to properly identify the different tree and palm species, and to properly grade the quality standards for new trees and palms, including the knowledge of proper planting, pruning, and landscape maintenance techniques.

5. Each year after the establishment of the Trust Fund, twenty (20%) percent of the revenues into the Trust Fund shall be transferred out at the end of the year to the new “Tree Operating Account”.

(b) Allowable expenditures undertaken pursuant to this Chapter may be made by the City Manager, or his/her designee, except that any Trust Fund expenditures in excess of $50,000.00 will require approval by the City Commission.

(c) It is the intent of this article that prior to the expenditure of funds for the above listed items by the City Manager or his/her designee, that due consideration is given to written requests from the Directors of the Departments of Building, Planning, and/or Resilience and Public Works.

Sec. 17-104. Funds made available; financial report.

(a) Funds deposited in the Trust Fund shall be made available to the City Manager for implementation purposes; all disbursals of Trust Fund monies shall be made by the City Manager, or his/her designee, in accordance with this Chapter of the Code, and after due consideration is given to the written recommendations of the Directors of the Departments of Planning, Building, Code Compliance, Resilience and Public Works and/or Parks and Recreation.

(b) Funds may be transferred to capital projects as part of the annual Operating Budget or Multi-Year Capital Plan to be spent on tree replacement and restoration and enhancement of tree canopy coverage.

(c) Funds may be spent by resolution or ordinance of the City Commission on other tree replacement and restoration and enhancement of tree canopy coverage from time to time as necessary.

* * *"

Section 4. If any section, part of a section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 5. This Ordinance shall become effective immediately after its adoption and signature of the Mayor.[3]

[3] This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten (10) days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.