

Sec. 24-49. - Permits for tree removal and relocation, improperly issued permits, violation of permit conditions, exemptions from tree removal permits; mortgagee exemption from liability.

- (1) It shall be unlawful for any person, unless otherwise permitted by the terms of this section, to do tree removal work or to effectively destroy any tree, or to effectively destroy any understory in a natural forest community, without first obtaining a permit from the Department.
- (2) No municipal or County official shall issue a tree removal permit that does not comply with the provisions of this section. Any such permit shall be void. A municipality shall not be limited from requiring tree removal permits for species exempt from tree removal permits required by this section, provided the tree is not within a natural forest community.
- (3) It shall be unlawful for any person to violate or not comply with any of the conditions of a Miami-Dade County tree removal permit.
- (4) The following activities are exempt from tree removal permits:
 - (a) Removal of trees within the yard area of an existing single-family residence, provided the trees are not within a natural forest community, and are not specimen trees. This exemption does not apply to trees which are growing on County rights-of-way adjoining existing single-family residences;
 - (b) Removal of trees for the construction of a new single-family residence, provided that:
 - (i) The lot is one (1) acre or less in size (43,560 square feet), if an AU zoned lot, or one-half ($\frac{1}{2}$) acre or less in size (21,780 square feet), for any other zoned lot; and
 - (ii) The lot is being developed as the principal residence of the owner-builder; and
 - (iii) The lot is not within an area designated as a natural forest community; and
 - (iv) The trees are not specimen trees.
 - (c) Removal of any dead tree, provided the tree is not within a natural forest community.
 - (d) Removal of trees within State-approved plant nurseries and botanical gardens, provided said trees were planted and are growing for the display, breeding, propagation, sale or intended sale to the general public in the ordinary course of business.
 - (e) Removal of trees for the establishment, maintenance and operation of a bona fide grove or bona fide tree nursery, except when the proposed tree removal is to occur in a natural forest community designated under Resolution No. 1764-84 or under subsequent revisions of the natural forest community maps or when the proposed tree removal will affect specimen trees as defined herein. Any person desiring to remove trees pursuant to this provision shall obtain written approval from the Department prior to the commencement of any such activities under this exemption.
 - (f) Removal of any of the following tree species with scientific nomenclature as set forth in Wunderlin, Richard P. and Hansen, Bruce F., Guide to the Vascular Plants of Florida, 2nd Ed. University of Florida Press, Gainesville, FL. (2003), a copy of which shall be maintained by the Director or Director's designee and available for review by the public. If the activity is within a natural forest community or lands protected by a covenant running with the land in favor of Miami-Dade County including, but not limited to, Environmentally Endangered Lands (EEL), Environmentally Sensitive Lands, or Tree Preservation Areas, a permit shall be required, but all application and permit fees shall be waived by the Department:
 - (i) All trees listed in Section 24-49.9.
 - (ii) Any of the following species:
 - Araucaria heterophylla (Norfolk Island pine)
 - Bauhinia purpurea (Orchid tree)

Bauhinia variegata (Orchid tree)

Calophyllum antillanum (Mast wood)

Eugenia uniflora (Surinam cherry)

Hibiscus tiliaceus (Mahoe)

Metopium toxiferum (Poisonwood)

Murraya paniculata (Orange jasmine)

Pittosporum petandrum (Taiwanese cheesewood)

Pongamia pinnata (Tallow tree)

Pouteria campechiana (Eggfruit)

Psidium cattleianum (Cattley guava)

Psidium guajava (Guava)

Syzygium cumini (Java plum)

Syzygium jambos (Rose apple)

Terminalia catappa (Tropical almond)

Washingtonia spp. (Washington palm)

- (g) 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 the person who has or had a legal, beneficial or equitable interest in the real property upon which such tree is located.
- (h) Removing, trimming, cutting or altering of any mangrove tree or removal of any tree located upon land which is wetlands as defined in Section 24-5. Trees located upon land which is wetlands as defined in Section 24-5 and mangrove trees located anywhere in Miami-Dade County shall be subject to the permitting requirements of Article IV of this chapter.
- (i) Removal of a tree or trees within a bona fide fruit grove for the express purpose of converting said bona fide fruit grove to another bona fide agricultural purpose, provided however, that the owner of the real property upon which the bona fide fruit grove is planted has entered into a covenant agreement with Miami-Dade County in the form approved by the Board of County Commissioners, which covenant requires that said property shall only be used for bona fide agricultural purposes for a period of five (5) years from the date of execution. The form for said covenant agreement shall be approved by the Board of County Commissioners by resolution concurrently with the approval of this ordinance so that all covenant agreements submitted pursuant to this provision can be executed and accepted by the Director and then recorded in the Official Records of Miami-Dade County without the necessity of additional public hearings.

In the event that the provisions of said covenant are not complied with, the Director may commence an action in law or equity to ensure adherence with the replanting requirements contained in Section 24-49.4 of the Code of Miami-Dade County.

- (5) Any mortgagee with respect to property upon which any violation of this tree ordinance has occurred shall not be liable for such violation unless, prior to said violation, said mortgagee has foreclosed upon said property or participated in the management or control of said property, or unless said mortgagee has effected or caused the tree ordinance violations occurring on said property.
- (6) Notwithstanding the provisions of Section 24-31(7) herein, if actions or omissions constituting a violation of this article occurred at a time when the completed actions or omissions were not prohibited by law, such completed actions or omissions shall not constitute a violation of this article.

(Ord. No. 04-214, §§ 1, 5, 12-2-04; Ord. No. 08-55, § 2, 5-6-08; Ord. No. 13-24, § 1, 3-5-13)