

## Chapter 166

### TREES

**[HISTORY: Adopted by the Town Council of the Town of Callahan 4-7-2008 by Ord. No. 2008-04. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Floodplain control — See Ch. 110.

Nuisances — See Ch. 130.

Subdivision of land — See Ch. 160.

Zoning — See Ch. 195.

#### **§ 166-1. Purpose; implementation.**

The purpose of this chapter is to establish those resources or areas that should be protected from the harmful effects of development. The provisions of this article shall be applied to a proposed development site before any other development design work is done. Application of the provisions of this article will divide the proposed development site into areas that may be developed and areas that must generally be left free of development activity. The proposed development should then be designed to fit within the areas that may be developed. All site plans and drawings must incorporate the application of this chapter.

#### **§ 166-2. Applicability; development defined.**

This chapter applies only to development that begins after the effective date of this chapter. "Development" as used in this chapter includes any activities on land or use of land that requires the issuance of a permit or authorization from the Town and might require the removal of trees from the land. Any use that results in the actual removal of a tree or trees is presumed to be a use that might require the removal of trees from the land.

#### **§ 166-3. Removal defined.**

Removal of a tree includes any act in addition to cutting down that causes a tree to die or become likely to die, such as damage inflicted to the root system by heavy machinery, changing the natural grade above the root system or around the trunk, damage, including fire damage, inflicted on the tree permitting decay, pest infiltration or structural instability. A tree shall be deemed removed or likely to die when it suffers a decline in the tree canopy of 25% or more.

#### **§ 166-4. Trees defined.**

Trees as used in this chapter includes all plants that grow from the ground from predominantly a single point or trunk with the single point or trunk extending from the ground to a height of least two feet with a diameter at two feet above the ground of at least two inches. This chapter does not apply to any plant not meeting this description.

**§ 166-5. Tree survey and permit required.**

A developer's first application for a permit or authorization to conduct any development activity must be accompanied by a tree survey showing the location of all trees on the parcel(s) of real property on which development is proposed and an application for a permit to remove trees, if removal is necessary for the proposed development. No development activity or site work shall begin and no trees may be removed until the Town's Building Official issues a permit for the removal of trees. Site work includes the removal of trees in anticipation of development, either by the developer, the developer's agents, or the developer's predecessor in title.

**§ 166-6. Permit conditions.**

- A. Permits for the removal of trees shall be issued only when the following conditions are met in the judgment and discretion of the Building Official:
- (1) The application for a permit was accompanied by a tree survey that accurately depicts the location, approximate height, approximate diameter, and type of all trees located on the parcel(s) proposed for development and the trees proposed for removal; and
  - (2) The parcel(s) cannot be reasonably economically developed without the removal of the trees proposed for removal; or
  - (3) The condition of a tree with respect to disease, insect attack, age, or other damage creates a danger of falling or otherwise causes the tree to have an adverse impact on urban or natural environments; or
  - (4) The tree will cause a substantial likelihood of structural damage to a building, utility service, or creates an unsafe vision clearance; and
  - (5) The tree is not providing habitat to legislatively designated endangered or protected bird, animal or insect species.
- B. Under no circumstances will permits be issued unless both conditions in Subsection A(1) and (5) are met. Once conditions in Subsection A(1) and (5) are met, meeting conditions in Subsection A(2), (3) or (4) shall result in the issuance of a permit for the removal of tree meeting the required conditions. There is no fee for a permit to remove trees, as long as the permit is obtained before the removal.

**§ 166-7. Permit after tree removal; fee; fine for failure to obtain permit.**

Any person who removes a tree without first obtaining a permit shall apply for and obtain an after-the-fact permit for each tree removed within 30 days of the removal or notice of an illegal removal of trees from the Town. The fee for the after-the-fact permit is \$500 per removed tree. Failure to apply for a permit within 30 days after removal or service of notice shall subject the violator of a fine of \$250 per day. The individual listed as owner of the property as shown by the official records of the Property Appraiser for Nassau County, Florida will be the individual receiving the notice of illegal tree removal.

**§ 166-8. Appeals.**

Any individual denied a tree removal permit by the Building Official or otherwise aggrieved by a

decision of the Building Official regarding the removal of trees may file a written appeal to the Town Council. The written appeal must be delivered to the Town Hall, and will be considered at the next regularly scheduled Town Council meeting held no less than 10 days after delivery of the appeal to Town Hall. The appellant bears the burden of demonstrating compliance with the conditions for removal of trees in this chapter and the failure of the Building Official to properly issue a permit for tree removal. Appellants who do not file a written appeal and appear in person at the Town Council meeting at which their appeal will be heard will have their appeal denied.