


Select Year: 2011 

The 2011 Florida Statutes

[Title XXXII](#)
REGULATION OF PROFESSIONS AND
OCCUPATIONS

[Chapter 479](#)
OUTDOOR
ADVERTISING

[View Entire
Chapter](#)

479.106 Vegetation management.—

(1) The removal, cutting, or trimming of trees or vegetation on public right-of-way to make visible or to ensure future visibility of the facing of a proposed sign or previously permitted sign shall be performed only with the written permission of the department in accordance with the provisions of this section.

(2) Any person desiring to engage in the removal, cutting, or trimming of trees or vegetation for the purposes herein described shall make written application to the department. The application shall include the applicant's plan for the removal, cutting, or trimming and for the management of any vegetation planted as part of a mitigation plan.

(3) As a condition of any removal of trees or vegetation, and where the department deems appropriate as a condition of any cutting or trimming, the department may require a vegetation management plan, approved by the department, which considers conservation and mitigation, or contribution to a plan of mitigation, for the replacement of such vegetation. Each plan or contribution shall reasonably relate to the vegetation being affected by the application and, where appropriate, shall include plantings which will allow reasonable visibility of sign facings while screening sign structural supports. The department may establish special mitigation programs for the beautification and aesthetic improvement of designated areas and permit individual applicants to contribute to such programs as a part or in lieu of other mitigation requirements.

(4) The department may establish an application fee not to exceed \$25 for each individual application to defer the costs of processing such application and a fee not to exceed \$200 to defer the costs of processing an application for multiple sites.

(5) The department may only grant a permit pursuant to s. 479.07 for a new sign which requires the removal, cutting, or trimming of existing trees or vegetation on public right-of-way for the sign face to be visible from the highway when the sign owner has removed at least two nonconforming signs of approximate comparable size and surrendered the permits for the nonconforming signs to the department for cancellation. For signs originally permitted after July 1, 1996, no permit for the removal, cutting, or trimming of trees or vegetation shall be granted where such trees or vegetation are part of a beautification project implemented prior to the date of the original sign permit application, when the beautification project is specifically identified in the department's construction plans, permitted landscape projects, or agreements.

(6) Beautification projects, trees, or other vegetation shall not be planted or located in the view zone of legally erected and permitted outdoor advertising signs which have been permitted prior to the date of the beautification project or other planting, where such planting will, at the time of planting or

after future growth, screen such sign from view.

(a) View zones are established along the public rights-of-way of interstate highways, expressways, federal-aid primary highways, and the State Highway System in the state, excluding privately or other publicly owned property, as follows:

1. A view zone of 350 feet for posted speed limits of 35 miles per hour or less.
2. A view zone of 500 feet for posted speed limits of over 35 miles per hour.

(b) The established view zone shall be within the first 1,000 feet measured along the edge of the pavement in the direction of approaching traffic from a point on the edge of the pavement perpendicular to the edge of the sign facing nearest the highway and shall be continuous unless interrupted by existing, naturally occurring vegetation. The department and the sign owner may enter into an agreement identifying the specific location of the view zone for each sign facing. In the absence of such agreement, the established view zone shall be measured from the sign along the edge of the pavement in the direction of approaching traffic as provided in this subsection.

(c) If a sign owner alleges any governmental entity or other party has violated this subsection, the sign owner must provide 90 days' written notice to the governmental entity or other party allegedly violating this subsection. If the alleged violation is not cured by the governmental entity or other party within the 90-day period, the sign owner may file a claim in the circuit court where the sign is located. A copy of such complaint shall be served contemporaneously upon the governmental entity or other party. If the circuit court determines a violation of this subsection has occurred, the court shall award a claim for compensation equal to the lesser of the revenue from the sign lost during the time of screening or the fair market value of the sign, and the governmental entity or other party shall pay the award of compensation subject to available appeal. Any modification or removal of material within a beautification project or other planting by the governmental entity or other party to cure an alleged violation shall not require the issuance of a permit from the Department of Transportation provided not less than 48 hours' notice is provided to the department of the modification or removal of the material. A natural person, private corporation, or private partnership licensed under part II of chapter 481 providing design services for beautification or other projects shall not be subject to a claim of compensation under this section when the initial project design meets the requirements of this section.

(d) This subsection shall not apply to the provisions of any existing written agreement executed before July 1, 2006, between any local government and the owner of an outdoor advertising sign.

(7) Any person engaging in removal, cutting, or trimming of trees or vegetation in violation of this section or benefiting from such actions shall be subject to an administrative penalty of up to \$1,000 and required to mitigate for the unauthorized removal, cutting, or trimming in such manner and in such amount as may be required under the rules of the department.

(8) The intent of this section is to create partnering relationships which will have the effect of improving the appearance of Florida's highways and creating a net increase in the vegetative habitat along the roads. Department rules shall encourage the use of plants which are low maintenance and native to the general region in which they are planted.

History.—s. 4, ch. 96-201; s. 1, ch. 2006-249.

14-40.030 Application and Permit Issuance.

(1) Permit Required.

(a) No person or entity may remove, cut, or trim trees, shrubs, or herbaceous plants on the Department's right of way to make visible or to ensure future visibility of off-premise outdoor advertising signs without obtaining a Permit for Vegetation Management at Outdoor Advertising Sign, Form 650-050-08, Rev. 07/97, which is incorporated herein by reference, pursuant to this rule chapter. For purposes of this rule, the application of chemical control constitutes removing, cutting, or trimming, depending on the impact on the tree, shrub, or herbaceous plant. A Permit for Vegetation Management at Outdoor Advertising Sign may be requested by submitting a completed Application for Vegetation Management at Outdoor Advertising Sign, Form 650-050-06, Rev. 01/02, which is incorporated herein by reference, to the Department District Maintenance Engineer or designee with responsibility for the segment of state road to which the subject sign is permitted. Alternatively, the Application for Vegetation Management at Outdoor Advertising Sign may be submitted to the State Outdoor Advertising Administrator, with an application for a new sign permit. Form 650-050-06 is available at any Department Office or on the Department website at: www.dot.state.fl.us/emo. This rule does not apply to requests to trim or remove vegetation that screens on-premise signs.

(b) An Application for Vegetation Management at Outdoor Advertising Sign must be submitted by the outdoor advertising sign permit holder. A separate application is required for each sign facing. The vegetation management plan and appraisal, described in paragraph (c), shall both be prepared by a qualified individual. Qualified individuals shall be one of the following:

1. An International Society of Arboriculture (ISA) Certified Arborist ® with Advanced Training in Roadside Vegetation, or an individual with equivalent credentials from a nationally recognized arboricultural organization, or
2. A landscape architect registered pursuant to Chapter 481, Part II, Florida Statutes.

(c) The application shall contain:

1. The name, address, telephone number, facsimile number, and E-Mail address if available, of the applicant; the Department's current outdoor advertising sign tag number; the sign permit holder's sign face number; and the notarized signature of the applicant's authorized representative.

2. The applicant's vegetation management plan (plan). The plan shall be for a period of not less than two years and not greater than five years. The plan shall include a plan for removing vegetation within the vegetation management zone, cutting (removing or altering more than one quarter of any plant's height, spread, or density of branches), or trimming (the shaping or pruning of less than one quarter of any plant's height, spread, or density of branches). The vegetation management plan shall be a graphic and written document that describes the removal, cutting, trimming, planting, fertilizing, mulching, irrigation, and desired condition and appearance of existing and proposed vegetation, including a plan for disposal of debris, and a schedule and description of the intended vegetation management method(s) within the vegetation management zone. All vegetation management proposed in the plan shall be in accordance with this rule and Rule 14-40.003, F.A.C.

3. Color photographs of the sign and entire view zone taken within six weeks prior to the application being made to the Department. The photographs and accompanying drawings must depict a clear representative overview of the vegetation to be removed, cut, or trimmed.

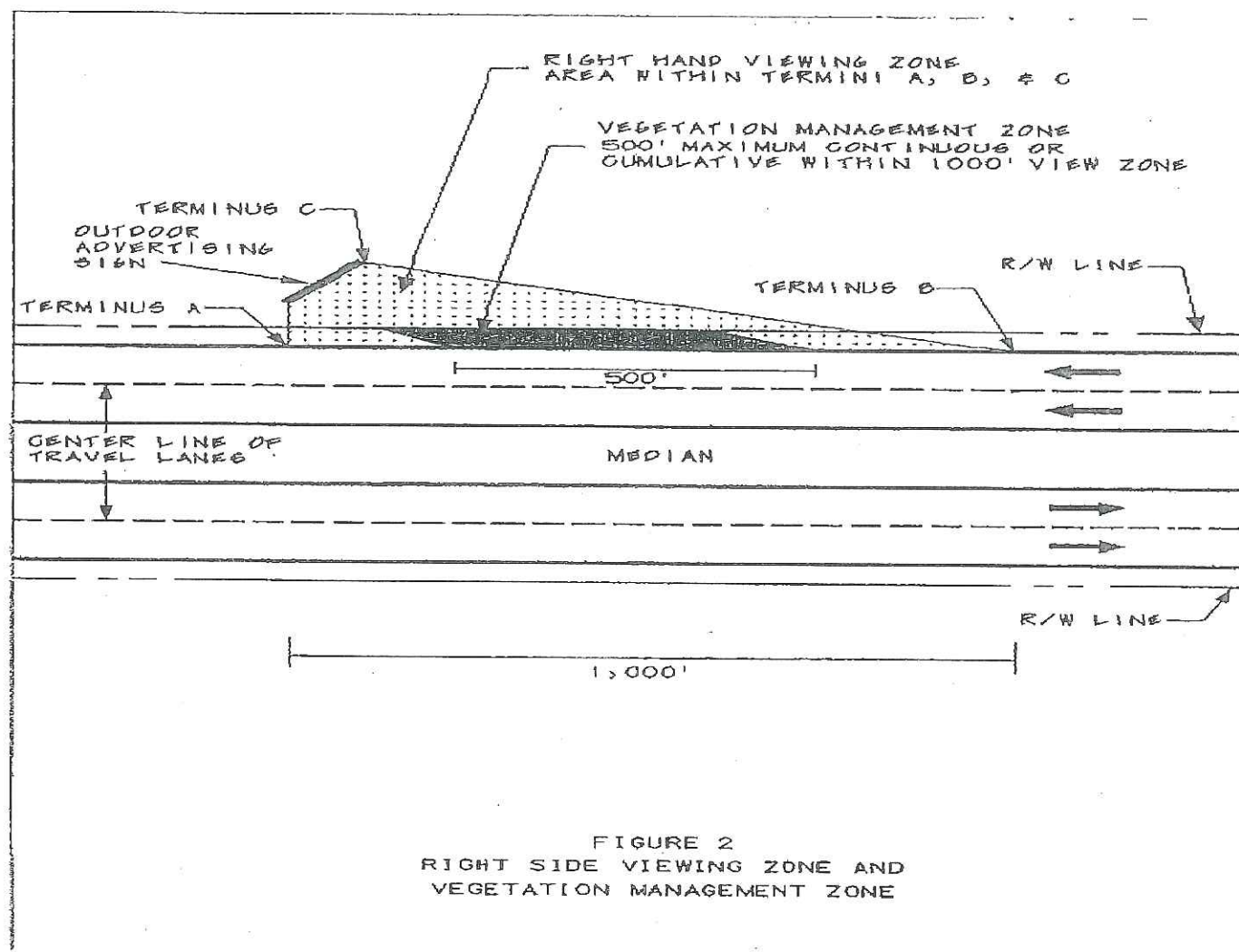
4. A photocopy of the qualifying credentials of the person preparing the vegetation management plan, and appraisal for mitigation, if mitigation is required. If herbicides will be used, the application must include a photocopy of the applicator's license in three categories (core curriculum, right of way, and aquatic) by the Florida Department of Agriculture and Consumer Services.

5. An itemized appraisal of the mitigation value of vegetation to be removed, cut, or trimmed, if mitigation is required.

6. A non-refundable application fee of \$25.00. The non-refundable application fee shall be a total of \$200.00 for more than eight applications submitted simultaneously, providing that they are within the same Department District. If payment is by check, the fee submitted with an Application for Vegetation Management at Outdoor Advertising Sign must be paid separately from fees for other types of permits. The approved application, including any conditions stated therein, and the approved vegetation management plan, shall become part of the permit. The permit, issued by the Department, shall allow vegetation management within the vegetation management zone for the duration of the approved vegetation management plan. After approval, the permittee must give the Local Maintenance Engineer a minimum of two working days notification prior to all permitted vegetation management activity on the Department's right of way, unless otherwise stipulated as a special provision of the permit.

(d) A Permit for Vegetation Management at Outdoor Advertising Sign authorizes the permittee to remove, cut, or trim trees, shrubs, or herbaceous plants only as provided in the permit, and only within an approved vegetation management zone, which will be determined as follows:

1. The approved vegetation management zone shall be based on a continuous or cumulative 500 foot linear distance along the edge of the travel lane within the 1,000 foot linear view zone (as described below), all within the Department's right of way (see Figures 2 and 3).



2. A sign facing shall have only one view zone, and only within the Department's right of way of the roadway to which the sign is permitted.

a. The view zone for a right-view sign (see Figure 2) is a nearly triangular area measured along the right edge of the nearest travel lane on the same side of the highway to which the sign is permitted, which has:

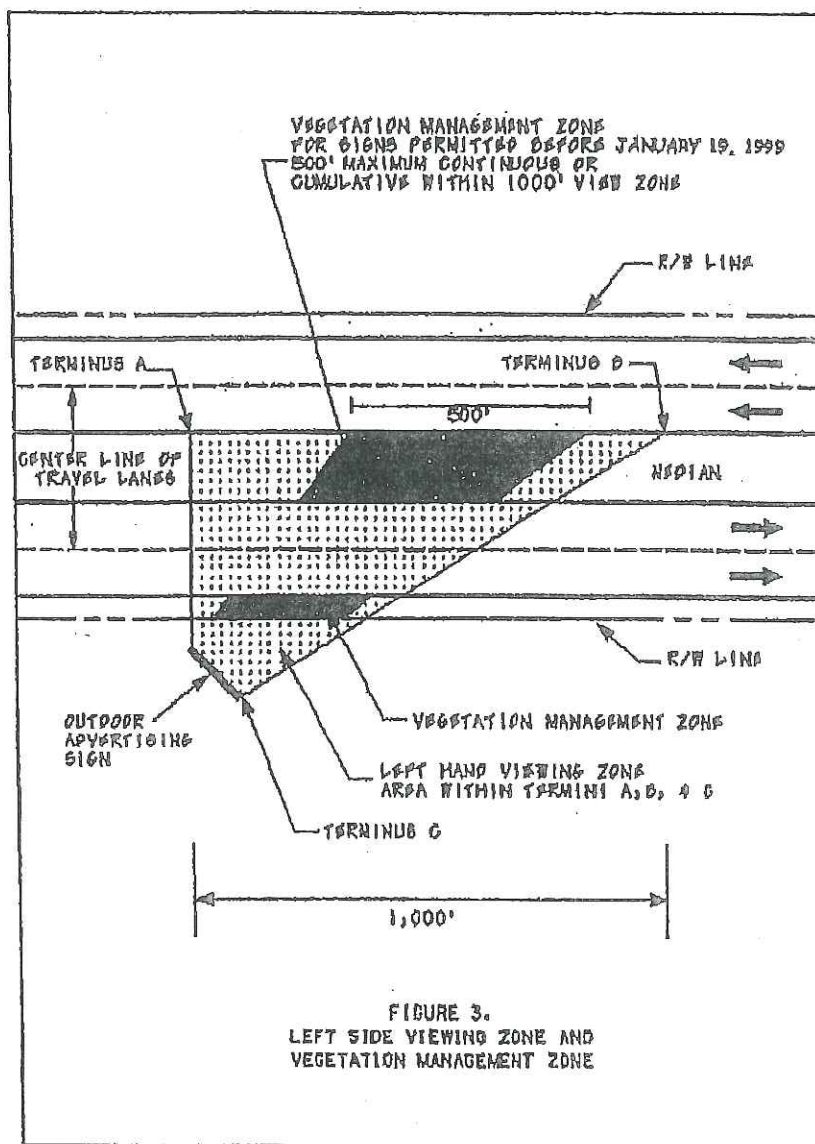
(I) As terminus A, the point on the edge of the travel lane immediately opposite the edge of the outdoor advertising sign face closest to the highway;

(II) As terminus B, the point measured along the edge of pavement 1,000 feet in the direction from which the sign is viewed; and

(III) As a terminus C, the point on the edge of the sign face which is furthest from the road.

b. The view zone for a left-view sign (see Figure 3) shall be measured as above, except that terminus A and terminus B shall be

measured along the left edge of the nearest travel lane on the other side of the highway centerline.



c. The median area will be included in an approved vegetation management zone only for left-read signs legally erected before January 19, 1999, and only as necessary to maintain the view of that sign across the median as it existed before January 19, 1999. Vegetation within the pre-existing view zone that could not be managed prior to the adoption of this rule may be managed to restore visibility in accordance with this rule.

(e) No Permit for Vegetation Management at Outdoor Advertising Sign will be issued:

1. For applications that are incomplete;
2. For vegetation control to enhance the view of an outdoor advertising sign which does not have a currently valid state permit.
3. For mowing (nonselective mechanical or chemical control of vegetation) of grass or other vegetation. Mechanical mowing, to a minimum height of 6 inches, will be permitted when no other means of vegetation management is practicable to control vegetation that screens or is likely to screen a sign face.
4. To make a sign visible for more than 500 feet within a view zone.
5. To remove, cut, or trim, vegetation that has established historic, cultural, economic, environmental, or aesthetic significance.

Such vegetation would:

- a. Form an important part of the setting or landscaping for an historic structure;
- b. Possess historic significance through a direct association with an event or person important in history;
- c. Contribute strongly to the historic character as well as visual appeal of an historic structure or district;
- d. Screen historic structures or residential property from traffic congestion;
- e. Serve as memorials;
- f. Be directly descended from historically significant trees or plants;
- g. Be listed on the National Register of Historic Places, the State Register of Historic Sites, or local historical registries;
- h. Be the only vegetation in the immediate vicinity, such that removal would leave the area barren of any substantial trees;
- i. Have reached an age, size, or shape that it is known to be a local landmark; or
- j. Be in the immediate vicinity of a roadway that has been lined with trees for a lengthy period of time where removal of such vegetation would significantly diminish the "tree lined" character of the roadway;
6. To remove, cut, or trim trees, shrubs, or herbaceous plants that are protected by state law.
7. To remove, cut, or trim trees, shrubs, or herbaceous plants in violation of provisions of Section 479.106(5), Florida Statutes.
8. To remove, cut, or trim trees, shrubs, or herbaceous plants, when the Department has determined that the proposed vegetation management will significantly disrupt natural systems, roadside aesthetics, or have other negative impacts on the operation of the highway.
9. To create a new view zone by removing, cutting, or trimming existing vegetation for any sign originally permitted after July 1, 1996, unless the applicant removes at least two approximate comparable size nonconforming signs under valid permits issued pursuant to Section 479.07, Florida Statutes, and surrender the permits to the Department.
10. To remove, cut, or trim trees that have a circumference, measured at 4 1/2 feet above grade, equal to or greater than 70% of the circumference of the Florida Champion of the same species as listed in the Big Trees, The Florida Register, Florida Native Plant Society, 1997, which is incorporated herein by reference.
11. To remove, cut, or trim vegetation that is part of a beautification project, when the project was approved prior to the permitting of any sign originally permitted after July 1, 1996. For the purpose of this rule, beautification projects include landscape projects, mitigation projects, and restoration projects. For the purpose of this rule, a beautification project is approved when it is specifically identified in the Department's five-year work program, or is a permitted landscape project, or is part of an executed agreement between the Department and a local government, or has been approved in writing by the Department for installation at a later date by a local government.

(f) Applications will be reviewed and approved or denied within 90 days of receipt of a completed application. The Department will notify the applicant of any apparent errors or omissions and request any additional information within 30 days of the receipt of an application. When an application is denied, no application fee will be charged for a revised application submitted within 90 days after the date shown on the notice of denial.

(g) A Permit for Vegetation Management at Outdoor Advertising Sign is valid for the term of the vegetation management plan

(two to five years, as represented on the Application of Vegetation Management at Outdoor Advertising Sign and the permit.) The Department will determine the expiration date of any Permit for Vegetation Management at Outdoor Advertising Sign, based on the safety of all users of the Department's right of way, and the need to avoid conflict with other permitted activities on the Department's right of way, or changes in roadside conditions.

(h) When a Permit for Vegetation Management at Outdoor Advertising Sign expires, a new permit may be requested by submitting a new Application for Vegetation Management at Outdoor Advertising Sign in accordance with this rule.

(i) A permit placard (FDOT Form 650-050-08) must be displayed within the vegetation management zone in clear view from the main traveled way when vegetation management is in progress.

(2) Vegetation Management on the Right of Way.

(a) All work performed pursuant to a Permit for Vegetation Management at Outdoor Advertising Sign shall follow the approved vegetation management plan.

(b) Chemical control of vegetation is limited to the use of United States Environmental Protection Agency approved selective herbicides. Foliar application of herbicides is limited to the control of invasive exotic plants.

(c) Within 10 working days after completion of the removal, cutting, or trimming of vegetation, a qualified individual must inspect the vegetation management zone and adjoining right of way, and submit written notification to the District Maintenance Engineer or designee that the work is complete. The correspondence must indicate the extent and nature of any unauthorized removal, cutting, or trimming.

(3) Mitigation. An applicant shall mitigate in accordance with this rule chapter for the impact to vegetation from removal, cutting, trimming, or accidental damage of vegetation on the Department's right of way.

(a) Mitigation is required:

1. Where cutting or trimming of, or damage to vegetation permanently detracts from the appearance or health of trees (including palm trees), shrubs, or herbaceous plants, or where cutting and trimming of trees or shrubs is not done in accordance with the standards set forth in the following documents: American National Standards Institute Tree Shrub and Other Woody Plant Maintenance-Standard Practices, 1995, and Fertilization, 1998, Publication #A300 (Part 2), and Tree-Pruning Guidelines authored and published by the International Society of Arboriculture, 1995, which are hereby incorporated by reference. Copies of these publications are available for purchase from the International Society of Arboriculture, Post Office Box GG, Savoy, Illinois 61874-9902, phone (217) 355-9411, FAX (217) 355-9516, or on the Internet at www.flaisa.org. This requirement does not apply to the cutting or trimming of, or damage to invasive exotic plants (plants listed by the Florida Department of Environmental Protection Rule Chapter 62C-52, F.A.C., Aquatic Plant Importation, Transportation, Non-Nursery Cultivation, Possession, and Collection, and plants listed by the Florida Department of Agriculture and Consumer Services, Rule Chapter 5B-57, F.A.C., Introduction or Release of Plant Pests, Noxious Weeds, Arthropods, and Biological Control Agents, or other plant species determined by the Department to be a nuisance to natural habitats or agriculture, or to have an adverse effect on the maintenance or safety of the Department's right of way).

2. Where trees taller than the surrounding shrubs and herbaceous plants are permanently damaged or removed.

3. Where trees or shrubs of a species that are not likely to grow to interfere with the visibility of displays are damaged or removed.

4. Where trees or shrubs of a species that are likely to grow to interfere with the visibility of displays are trimmed improperly, permanently damaged, or removed.

5. Where herbaceous plants are permanently damaged.

(b) Where mitigation is necessary, the applicant will provide with the Application for Vegetation Management an appraisal prepared by a qualified individual as defined in paragraph (1)(b) using the appropriate appraisal method found in Determining the Mitigation Value of Roadside Vegetation, Florida Chapter of the International Society of Arboriculture, 2000, which is incorporated herein by reference. Copies of this document can be obtained by contacting the International Society of Arboriculture as listed in subparagraph (3)(a)1., above. Pending approval by the Department, the appraised value of the vegetation to be cut and removed will be the required mitigation. Approval is based on completeness and accuracy of mitigation calculations.

1. The mitigation may be paid as a fee (Option 1) equal to the amount of the mitigation appraisal prepared in accordance with paragraph (b) of this rule. Mitigation fees must be paid to the Department prior to issuance of a Permit for Vegetation Management at Outdoor Advertising Sign.

2. The permittee may design and build a mitigation project equal to the appraised value, at an approved location within the right

of way (Option 2). Applicants must contact the District Landscape Manager when preparing to develop a mitigation plan. For mitigation projects, the applicant must submit a mitigation plan which, in addition to the requirements of this rule, meets the requirements for landscape plans in Rule 14-40.003, F.A.C., to the Department for approval. Mitigation projects must be designed to avoid additional maintenance costs by the Department. The mitigation plan shall include a landscape plan, maintenance plan (including watering for establishment for a period of one year from the date of planting), and an estimated budget of all expenses to install, establish, and maintain the replacement vegetation. The value of the completed mitigation project must be equal to or greater than the appraised value of the cut and removed vegetation. When a mitigation project does not meet the required mitigation value, the balance is due to the Department as a mitigation fee. When the mitigation plan is approved, the applicant may proceed to construct the mitigation project. Failure to complete the mitigation project within six months after the vegetation is cut or removed will result in a penalty for unauthorized removal, cutting, or trimming as described in subsection (4) of this rule. The permittee is required, at the permittee's expense, to remove and replace any mitigation materials that have not survived in a healthy condition for the first full year after planting. The replacement materials shall be of like size and variety as the replaced material, or may be other material proposed by the permittee, and determined by the Department, to be more likely to survive. If the mitigation project is not restored to meet the permit requirements, the permittee is subject to enforcement of required mitigation and the penalty for unauthorized removal, cutting, or trimming.

(c) Mitigation is not required when trimming maintains a plant's natural habit of growth, and is performed in accordance with professionally accepted arboricultural standards, cited in the documents previously referenced in subparagraph (3)(a)1. of this rule. Young trees (immature trees that are no taller than the surrounding shrubs and herbaceous plants) of species that upon their maturity are likely to interfere with the visibility of displays may be removed without mitigation. Invasive exotic plants may be removed without mitigation. Where the Department has determined that vegetation is diseased, or structurally damaged through no fault of the applicant, beyond a point where restoration is practicable, the vegetation may be removed without mitigation.

(d) Special Conditions Affecting Mitigation. The following additional provisions apply only to vegetation management pursuant to a permit issued under this rule:

1. Mitigation is not required for vegetation that the Department normally cuts or removes pursuant to its regular maintenance of the Department's right of way.

2. Mitigation is not required for vegetation when the Department's roadway plans explicitly show that the vegetation will be removed as part of the clearing and grubbing for a construction project designed and included in the Department's five-year work program.

3. Mitigation is not required for vegetation that was installed within the approved view zone after July 1, 1996, so long as the sign was permitted prior to the installation of the vegetation.

(4) Unauthorized Removal, Cutting, or Trimming of Vegetation. Any person engaged in unauthorized removal cutting, or trimming of vegetation in violation of Section 479.106, Florida Statutes, or who benefits from such action, is subject to a penalty of \$1,000 per incident per sign facing and shall provide mitigation as required by subsection (3). For purposes of this subsection, the application of any chemical compound that kills or injures a tree, shrub, or herbaceous plant constitutes removal, cutting, or trimming.

Specific Authority 334.044(2), 337.2505(1) FS. Law Implemented 334.044(25), 335.167, 337.405, 479.106 FS. History--New 1-19-99, Amended 2-7-02, 2-8-06.