

ORDINANCE NO. 1165

AN ORDINANCE OF THE CITY OF LAKE MARY, FLORIDA DELETING EXISTING SECTION 157.06 (D) AND SECTIONS 157.11 THROUGH 157.23, ADOPTING NEW SECTIONS 157.11 THROUGH 157.23, ESTABLISHING REVISED ARBOR REGULATIONS FOR THE CITY; PROVIDING CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, on September 22, 1982, the City Commission adopted Ordinance No. 153 which established the City's arbor regulations; and

WHEREAS, the arbor regulations were amended in 1994 and in 1995; and

WHEREAS, the City Commission desires to amend the arbor regulations again to make them more understandable and easier to use; and

WHEREAS, the City's Tree Board and City staff have spent approximately 18 months reviewing arbor regulations from other jurisdictions and developing and refining proposed regulations; and

WHEREAS, the Tree Board and the Planning and Zoning Board have reviewed the proposed regulations and recommend that the City Commission approve the proposed arbor regulations and the Planning and Zoning Board finds the regulations consistent with the comprehensive plan.

IT IS HEREBY ENACTED BY THE CITY OF LAKE MARY AS FOLLOWS:

SECTION 1. Section 157.06 (D) is repealed and replaced by the proposed Section 157.16 (A) & (B) contained in Exhibit ' A' attached hereto.

1 SECTION 2. Sections 157.11 through 157.23 are repealed in their entirety and are
2 replaced by proposed Sections 157.11 – 157.15 & Sections 157.16 (C) through 157.23
3 contained in Exhibit “ A” attached hereto.

4 Section 2. Conflicts. All ordinances or resolutions or parts of ordinances or
5 resolutions in conflict herewith are hereby repealed to the extent of any conflict.

6 Section 3. Severability: If any section, sentence, phrase, word or portion of this
7 Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall
8 not be held to invalidate or impair the validity, force or effect of any other section, sentence,
9 phrase, word, or portion of this Ordinance not otherwise determined to be invalid, unlawful,
10 or unconstitutional.

11 Section 4. Effective date. This Ordinance shall take effect immediately upon
12 passage and adoption.

13 PASSED AND ADOPTED this 5th day of May, 2005.

14 FIRST READING: April 21, 2005

15 SECOND READING: May 5, 2005

16
17 CITY OF LAKE MARY, FLORIDA
18 /s/ Thomas C. Greene
19 MAYOR, THOMAS C. GREENE

20 ATTEST:
21 /s/ Carol A. Foster
22 CITY CLERK, CAROL A. FOSTER

23
24 For the use and reliance of the City
25 of Lake Mary only. Approved as to
26 form and legal sufficiency.

27
28 /s/ Virginia Cassidy for
29 CATHERINE REISCHMANN, CITY ATTORNEY
30

1
2 EXHIBIT A

3
4 LAKE MARY ARBOR REGULATIONS

5 **§ 157.06 ADDITIONAL LANDSCAPE AND SCREENING**
6 **REQUIREMENTS.**

7 ~~(D) Minimum tree and shrub requirements for new single-family and two-~~
8 ~~family (duplex) lots. Each single-family and two-family dwelling lot shall~~
9 ~~maintain a minimum of one canopy tree and five shrubs per 2,500 square~~
10 ~~feet of lot area or fraction thereof prior to issuance of certificate of~~
11 ~~occupancy. Lots which are required to have more than five canopy trees~~
12 ~~may substitute one undestory for each required canopy tree in excess of the~~
13 ~~minimum five canopy trees.~~

14
15 ~~(1) Minimum plant material standards shall be in accordance with~~
16 ~~Subsection 157.07.~~

17
18 ~~(2) Existing vegetation may satisfy the requirements of this section~~
19 ~~subject to staff approval.~~
20 ~~(Ord. 764, passed 12-21-95)~~

21 **§ 157.11 ARBOR REGULATIONS; SCOPE.**

22 The terms and provisions of § 157.11 through §157.23 shall apply to all
23 real property, public and private, without exception, lying within the
24 municipal boundaries of the city.
25 (Ord. 153, passed 9-2-82; Am. Ord. 711, passed 8-4-94; Am. Ord. 764,
26 passed 12-21-95)

27
28 **§ 157.12 PERMIT REQUIRED.**

29
30 No person shall, directly or indirectly, cut down, destroy, remove or
31 move, or effectively destroy through damaging, or authorize the cutting
32 down, destroying, removing, moving, or damaging of any living trees greater
33 than 15 feet, as measured from the trunk to the structure, excluding the
34 overhang from an existing or proposed structure situated on property within
35 the city without an arbor permit having first been obtained. ~~Walls and fences~~
36 ~~are not considered structures for the purposes of this section.~~

1 (Ord. 153, passed 9-22-82; Am. Ord. 450, passed 8-3-89; Am. Ord. 520,
2 passed 9-6-90; Am. Ord. 711, passed 8-4-94; Am. Ord. 764, passed 12-21-
3 95) Penalty, see § 157.23
4

5 (A) Permit Contents. The arbor permit, when issued, shall specifically
6 identify which trees shall be permitted to be removed. The removal permit
7 merely authorizes the removal of the trees specified therein. Nothing in this
8 Chapter shall be constructed to require the removal of such trees by the
9 permittee.

10
11 (B) Permit Expiration. Any permit issued under this Chapter shall
12 automatically expire sixty (60) days after issuance, except for permits issued
13 in conjunction with a building permit, site plan, or final subdivision plan
14 which shall automatically expire at such time the respective permit expires.
15 A maximum extension of thirty (30) days may be granted provided good
16 cause is shown and provided the conditions of the permit approval have not
17 changed. An application for extension shall be filed with Staff at least 30
18 days prior to the expiration of the sixty-day period. An extension may be
19 granted without public hearing.

20
21 (C) Restrictions on the Tree Removal After Permit Expiration. Trees not
22 removed during the life of the permit may not be removed without the
23 issuance of a new permit based upon a new application.

24
25 (D) Permit form. **(This has been moved from §154.14)**. Permits shall
26 be issued in such form as may be prescribed by the City Manager or his
27 designee and may set forth in detail the conditions upon which the permit is
28 granted. One permit may cover several trees or groups of trees as long as
29 the same can be clearly identified thereon; however, no permit may be
30 issued for more than one parcel or area of land unless those parcels or areas
31 of land shall be contiguous to one another.

32 (Ord. 153, passed 9-2-82; Am. Ord. 711, passed 8-4-94; Am. Ord. 764,
33 passed 12-21-95)
34

35 (E) Permit Display. The permit shall be located and maintained upon the
36 site at all times until final inspection or until issuance of a certificate of
37 occupancy if applicable. For new developments, the permit shall be attached
38 to the "posting board" with other permits. For existing developments and
39 existing single-family residences, the permit shall be readily available.-(Ord.
40 153, passed 9-2-82; Am. Ord. 711, passed 8-4-94; Am. Ord. 764, passed
41 12-21-95)

1
2 **§ 157.13 PERMIT APPLICATION PROCEDURES: SUBMITTAL**
3 **REQUIREMENTS.**
4

5 The following procedures shall be followed and shall govern the granting
6 of all arbor permits pursuant to this section.
7

8 (A) Filing Application and Payment of Fees. An application for tree
9 removal and land clearing shall be filed on official forms provided by the
10 City. The applicant shall be required to pay a fee as shall be established by
11 resolution of the City Commission, except that no fee shall be required for
12 the removal of trees that are dead, diseased, suffer from severe structural
13 defects, pose a clear and obvious safety hazard to structures and people or
14 removed for a public project sponsored and paid for by the City. If the
15 applicant is not the property owner, then the applicant shall attach the
16 written permission of the property owner to the application. Completed
17 applications shall be returned to the Community Development Department
18 for processing, along with the following:
19

20 (1) Tree inventory, for the portion of the site to be developed,
21 consisting of a scaled drawing of a scale of one (1) inch equals fifty (50) feet
22 or less for undeveloped land or for developed single family residential land, a
23 sketch approximately one (1) inch equals twenty (20) feet or less indicating:
24

25 (1) Property boundaries.
26

27 (2) The location of individual trees including the tree's
28 common or scientific name, and caliper of trees.
29

30 (3) An indication of all trees proposed for removal.
31

32 (4) The location of existing and proposed improvements, if
33 any, including proposed additions to existing buildings, structures,
34 impervious surfaces (e.g. pool decks, drives, parking areas), stormwater
35 retention areas, utilities and other such improvements.
36

37 (5) A replacement plan indicating the means of compensating
38 for the trees to be removed including the species and size of any
39 replacement tree(s), if required.
40

41 (6) Location of trees preserved for replacement credit.

1
2 (7) If significant grade changes are proposed on the site, a
3 grading plan drawn to scale shall be provided. In addition, a written
4 statement shall be provided by a competent professional indicating the
5 probability of whether the grade change will result in the death of tree(s)
6 intended to be preserved. Said statement shall immediately be brought to
7 the attention of the City at the time the application is filed and prominently
8 attached to the front of the application.

9
10 (8) A protection plan describing how preserved tree(s) shall be
11 preserved on the site and adjacent properties during construction, tree
12 removal, and grading.

13
14 (9) Valid reasons for the removal of trees.

15
16 (10) The appropriate permit fees.

17
18 ~~(2) In the case of a subdivision development, the application for~~
19 ~~(conceptual plan) approval shall be submitted to the Community~~
20 ~~Development Department and address tree removal and preservation. The~~
21 ~~City Commission and/or Planning and Zoning Board shall have final authority~~
22 ~~over the approval or denial of applications for permits in such instances.~~
23 ~~Staff evaluation of the appropriateness of the application will be included in~~
24 ~~their recommendation to the City Commission and/or Planning and Zoning~~
25 ~~Board, and approval of the final plan shall constitute approval to issue the~~
26 ~~arbor permit.~~

27
28 (2) All new subdivisions shall be required to submit an application for
29 an Arbor Permit, at the time of initial submittal of the subdivision plan, to
30 the Community Development Department so that due consideration may be
31 given to protection of trees during the subdivision design process. Each
32 application for an Arbor Permit shall be subject to review under the
33 Development Review Committee process.

34
35 ~~(3) In the case of any development which requires site plan approval~~
36 ~~by the Planning and Zoning Board and/or the City Commission, or both,~~
37 ~~permits for alteration, removal, relocation, or replacement of trees covered~~
38 ~~herein shall be obtained by clearly addressing the requirements at the time~~
39 ~~of site plan submittal. Staff evaluation of the appropriateness of the~~
40 ~~application will be included in their recommendation to the Planning and~~

1 ~~Zoning Board, and approval of the site plan shall constitute approval to issue~~
2 ~~the arbor permit.~~

3
4 (3) Any commercial, industrial, multi-family or other use requiring site
5 plan approval under the City land development regulations shall be required
6 to submit an application for an Arbor Permit at the time of site plan
7 submittal so that due consideration may be given to the protection of trees
8 during the site plan design process. Each application for an Arbor Permit
9 shall be subject to review under the Development Review Committee
10 process.

11
12 (4) All new one and two-family dwelling units shall be required to
13 submit an application for an Arbor Permit at the time of application for a
14 building permit; the Tree inventory shall be shown on the building plot plan.

15
16 ~~(B) Submittals. Each application for permit to alter, remove, relocate, or~~
17 ~~replace trees covered herein shall be accompanied by a written statement~~
18 ~~indicating the reasons for the requested action and two copies of a legible~~
19 ~~site plan drawn to the largest practicable scale indicating the following:~~

20
21 ~~(1) Location of all existing or proposed structures, improvements,~~
22 ~~and site uses, properly dimensioned in reference to property lines, setback~~
23 ~~and yard requirements in spatial relationship.~~

24
25 ~~(2) Proposed changes, if any, in site elevations, grades, and major~~
26 ~~contours.~~

27
28 ~~(3) Location of existing or proposed utility service.~~

29
30 ~~(4) For trees that are to be saved or retained, each application~~
31 ~~should contain a statement of how these tree areas are to be protected~~
32 ~~during construction and landscape operations.~~

33
34 ~~(5) Applications involving developed properties may be based on~~
35 ~~drawings showing only that portion of the site directly involved and adjacent~~
36 ~~structures and landscaping or natural growth incidental thereto.~~

37
38 (B) Application review. Upon receipt of proper application, and except
39 for those associated with subdivision and site plan review, the City Manager
40 or his designee shall review that application, which ~~may~~ shall include a field

1 check of the site and referral of the application for recommendations to other
2 appropriate administrative departments or agencies.

3
4 (C) Fees. A permit fee of thirty (30) dollars shall not be charged for all
5 approved arbor permits applicable to existing, developed residential lots. A
6 permit fee for arbor permits applicable to new residential development, new
7 non-residential development and/or existing non-residential development
8 shall be imposed by resolution of the City Commission. Payment of this fee
9 shall be remitted prior to issuance of the arbor permit. No fee shall be
10 required for the removal of trees that are dead, diseased, suffer from severe
11 structural defects, pose a clear and obvious safety hazard to structures and
12 people or removed for a public project sponsored by the City. If the
13 applicant is not the owner, then the applicant shall attach written permission
14 of the property owner to the application.

15 (Ord. 153, passed 9-2-82; Am. Ord. 711, passed 8-4-94; Am. Ord. 764,
16 passed 12-21-95)

17
18 (D) Exempting Portion of the Tree Survey. Upon request, the City may
19 permit an applicant to omit certain portions of the tree inventory where
20 compliance with the requirements set forth herein would be unnecessarily
21 burdensome and the exempted portions are not needed for the City to
22 evaluate the application.

23
24
25 **§157.14 PERMITS REQUIREMENT FOR REMOVAL.**

26
27 (A) General.

28
29 Upon receipt of a completed application and verification on-site by the
30 City, a permit may be issued for tree removal under any one of the following
31 conditions:

32
33 (1) Trees located on building and construction sites as shown on City
34 approved plans, must meet the minimum standard as defined in § 157.16.

35
36 (2) Non-nuisance trees located within fifteen (15) feet of a structure,
37 excluding walls and fences, provided said trees are replaced elsewhere on
38 the property, in accordance with § 157.16.

39
40 (3) Nuisance trees located anywhere on the property.

1 (4) Historic trees shall not be removed in a developed single-family
2 dwelling district without specific approval of a majority of the Parks and
3 Recreation Board membership unless the tree trunk or any portion of the
4 tree trunk is located within 7½ feet of an existing single-family residential
5 structure or within 7½ of a proposed single-family residential structure for
6 which a permit has been submitted and approved by the city. A majority of
7 the Parks and Recreation Board shall be defined as a majority of those
8 members present and voting, except that at least four of the seven member
9 board must vote in favor of the motion for the motion to be official. In cases
10 where the approval of the Parks and Recreation Board is not required, the
11 arbor permit shall be submitted to the City Manager or his/her designee and
12 considered for approval.

13
14 (5) Trees severely diseased, severely injured or dead.

15
16 (6) Trees that interfere with the construction or repair of public
17 utilities, recreational and other public infrastructure.

18
19 (7) Undesirable trees, per Section 157.14 (B).

20
21 (8) Trees that have been approved by the City Manager or his
22 designee and which shall be replaced elsewhere on the property subject to §
23 157.16.

24
25 (B) Exemptions From Permitting Requirements.

26
27 (1) All trees and plants, within a licensed tree nursery, planted for
28 harvest

29
30 (2) Thinning of trees. A certified arborist or person who holds a
31 degree in horticulture or forestry or a licensed landscape architect shall
32 certify in writing the selective removal of existing trees to provide increased
33 light and air circulation to support good forestry practices, for example the
34 number of healthy trees a given parcel will support. ~~as determined by a~~
35 ~~horticultural or forestry expert such as the Seminole County urban forester,~~
36 ~~for example, the number of healthy trees a given parcel will support.~~

37
38 (3) Personal consumption for firewood or arts and crafts for
39 properties zoned A-1 (Agriculture) with a minimum lot size of three acres
40 utilizing trees of less than 12-inch caliper.

1 (4) In the event that any tree shall endanger health or safety and
2 require immediate removal without delay, such as, but not limited to, the
3 cutting of emergency fire lanes by fire-fighting units, verbal authorization
4 may be given by the City Manager and the trees removed without obtaining
5 a written permit as herein required. Such verbal authorization shall later be
6 confirmed in writing by the City Manager.

7
8 (5) Trees removed by the City or other governmental agency and
9 which are located within a public road or drainage rights-of-way or
10 permanent utilities or drainage easements or public park.

11
12
13 (6) Nuisance Trees. The following types of trees shall be exempt
14 from the terms and provisions of this section. The following types of trees
15 shall be considered nuisance trees and may be removed anywhere on the
16 property:

17
18 (1) Ear Trees (*Interlobrium cyclocarpum*).

19 (2) Cajeput Tree (*Melaleuca eucadendra*).

20 (3) American Mulberry (*Morus rubra*).

21 (4) Chinaberry (*Melia azedarach*).

22 (5) Black Cherry (*Punus serotina*).

23 (6) Containerized trees and nursery stock trees grown for resale.

24 (7) Sand Pines.

25 (8) Chinese Tallow (*Sapium sebiferum*).

26 (9) Silk Oak (*Grevillea robusta*).

27 (10) Rosewood (*Dalbergia sissoo*).

28 (11) Eucalyptus.

29 (12) Camphor Trees

30 (13) Golden Rain Tree

31 ~~(14) All trees with a caliper of less than 12 inches on developed single-~~
32 ~~family residential lots.~~

33 (14) Australian Pine (*Casuarina* species)

34
35 (7) Criteria for measuring trees.

36
37 a. For one and two-family residential properties, trees
38 that measure less than 12" at caliper may be removed without a
39 permit. When remaining stumps are less than 12" above the
40 ground, staff shall make a determination if the removed tree
41 required a permit. For trees cut at ground level, a permit is not

1 required for removal when the stump has a diameter of 15" or
2 less.

3
4 b. For all multi-family and non-residential properties,
5 trees that measure less than 6" at caliper may be removed
6 without a permit. When the remaining stumps are less than 12"
7 above the ground, staff shall make a determination if the
8 removed tree required a permit. For trees cut at ground level, a
9 permit is not required for trees when the stump has a diameter
10 of 7.5" or less.

11
12 (c) If trees are not symmetrical, a minimum of two diameter
13 measurements shall be taken and averaged to determine the caliper of the
14 tree. The measurements shall be taken at the widest and narrowest points
15 of the stump.

16
17 (8) Trees which are impacted by non-survival, disease, Acts of God, and
18 other injuries not related to development shall be replaced within 30 days in
19 accordance with Subsection 157.17, Tree Replacement, the replacement
20 criteria of this section, and/or the approved site plan. Failure to make
21 replacement within 30 days from receiving notification from the city for
22 unhealthy and dead trees shall constitute a violation, and be regulated in
23 accordance with Subsection 157.15, Violations.

24
25 (9) Appeal. Decisions denying a tree removal permit, or rejecting a
26 restoration or preservation plan may be appealed to the Arbor Board. A
27 written request shall be submitted to the City at least 30 days before the
28 Board's regular meeting. The decision of the Arbor Board may be appealed
29 to the City Commission. A written request shall be submitted to the
30 Community Development Department at least 30 days before the
31 Commission's regular meeting. (Ord. 153, passed 9-2-82; Am. Ord. 711,
32 passed 8-4-94; Am. Ord. 764, passed 12-1-95)

33
34 **~~§157.22~~ §157.15 VIOLATIONS OF THIS CHAPTER.**

35
36 (A) If a tree not authorized for removal is removed, altered, or damaged
37 such that its susceptibility to disease or other detrimental environmental
38 factors is significantly increased which may result in premature death, the
39 general contractor and/or property owner shall pay fines based upon the
40 following: ~~pay to the city an initial fine of \$100 per tree removed plus a fine~~
41 ~~related to the size of the tree removed as follows:-~~

Size of Tree Removed	Measured One Foot	Above the Ground	Fine
6 inches to <12 inches			\$ 600
12 inches to <24 inches			\$ 900
>24 inches			\$ 1,200

(1) Failure to obtain a permit - Fine of \$250.00 per tree or \$500 per historic tree removed.

(2) Removal of a tree without a permit - Fine of \$50.00 per caliper inch.

(3) Removal of an historic tree without a permit - Fine of \$100.00 per caliper inch.

(B) The initial fine may not be mitigated. The violator committing to a replacement plan utilizing the replacement ratio and criteria provided in this chapter, however, may mitigate the additional fine related to the size of the tree removed. The commitment to mitigate must be proposed by the violator and be acceptable to the City within 90 days of the date by which the violator was notified of the violation. Replacement trees must be guaranteed until the tree reaches the minimum protected size.

(1) Fines collected for violation of this chapter shall be deposited in a City Tree Planting Fund, which will facilitate the planting of trees on public property within the corporate limits of the city.

(2) The number of required Replacement Trees may be waived by the City Commission, if the City Commission determines the remaining number of trees to be preserved on site are of sufficient number and quality to substantially comply with the purpose and intent of this Chapter and a tree replacement fee is paid to the City's "Tree Bank", which is hereby established. Monies collected in the Tree Bank shall be used for enhancement and maintenance purchase of trees on public lands. The contribution to the Tree Bank may be waived by the City Commission for

1 individual homeowners, on a case-by-case basis, if the homeowner can
 2 demonstrate that the payment of the fee will cause the homeowner an
 3 undue economic hardship. Substitute Tree(s) allowed under this Waiver
 4 provision must have approval of the City Commission. The value to be paid
 5 into the tree bank shall be set forth in Table 1 and should be based upon the
 6 wholesale market value of the trees being replaced, plus installation and
 7 maintenance cost to establish the tree.

8
9
10
11 **Table 1: Tree Replacement Standards**

<u>DBH of Protected Tree</u>	<u>Number of Replacement Canopy Trees Required for Each Tree Removed</u>		<u>Number of Replacement Small Trees or palms Required for Each Tree Removed</u>		<u>Preferred Plant</u>		<u>Contribution to Tree Bank*</u>
<u>4" up to but not including 8"</u>	<u>1</u>	<u>or</u>	<u>1</u>	<u>or</u>	<u>Preferred Plant(s) w/Credits</u>	<u>or</u>	<u>\$250</u>
<u>8" up to but not including 12"</u>	<u>2</u>		<u>2</u>		<u>Preferred Plant(s) w/Credits</u>		<u>\$500</u>

12
13

<u>DBH of Protected Tree</u>	<u>Number of Replacement Canopy Trees Required for Each Tree Removed</u>		<u>Number of Replacement Small Trees or palms Required for Each Tree Removed</u>		<u>Preferred Plant</u>		<u>Contribution to Tree Bank*</u>
<u>12" up to but not including 16"</u>	<u>3</u>		<u>Not allowed</u>		<u>Preferred Plant(s) w/Credits</u>		<u>\$750</u>
<u>16" to 24"</u>	<u>4</u>		<u>Not allowed</u>		<u>Preferred Plant(s) w/Credits</u>		<u>\$1,000</u>
<u>>24" **</u>	<u>5</u>		<u>Not Allowed</u>		<u>Preferred Plant(s)</u>		<u>May Be Removed Only</u>

					W/Credits	With Arbor Board Approval
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* These amounts may be adjusted every two years to compensate for increase to costs of plants. ** May be removed only with the approval of the Arbor Board.

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~~(B) Violations of tree protection areas shall be enforced through a municipal infraction citation. The fine shall be \$100 per violation. Each day a tree protection area is violated shall constitute a separate violation.~~

§ 157. 16 MINIMUM TREE STANDARDS.

No certificate of occupancy shall be issued on the types of construction indicated below unless the underlying parcel has at least the required minimum number of approved trees:

(A) Any new one or two-family dwelling unit on a lot less than 6,000 square feet: not fewer than two (2) trees.

(B) Any new one or two-family dwelling unit on a lot equal to 6,000 square feet: not fewer than two (2) trees plus one (1) additional tree for each 4,000 square feet over 6,000 square feet.

(C) Any commercial, industrial, multi-family or other structure requiring site plan approval under the City land development regulations: for properties up to 1 ½ acres, a minimum of six (6) canopy trees will be required; for properties 1 ½ acres or greater, four (4) canopy trees per acre, whichever is greater will be required.

§157. 17 TREE REPLACEMENT.

(A) All trees that are removed or destroyed and are subject to replacement by this Chapter shall be replaced by a species of tree cited in Section 157.02, Replacement Stock. Replacement shall occur prior to the issuance of a certificate of occupancy (if approval is pending) or within 30 days of removal or destruction, whichever is earlier, unless a greater replacement period is provided.

1 (1) Criteria for Replacement Trees is as follows:

2
3 (a) Characteristics of Replacement Trees. The replacement tree(s)
4 shall have at least equal shade potential, screening properties, and/or other
5 characteristics comparable to that of the tree(s) requested to be removed.

6
7 (b) Size of Replacement Trees. Replacement tree(s) are to be
8 made according to the Tree Replacement Standards as set forth in Section
9 157.02; or otherwise agreed upon by the City Commission and applicant.

10
11 (c) Tree Species. Relocated or replacement trees shall include only
12 species and sizes defined as Replacement Trees (Section 157.02) under this
13 Chapter.

14
15 (d) Transplanting and Maintenance Requirements. All trees
16 transplanted pursuant to this Chapter shall be maintained in a healthy, living
17 condition. Any such trees that die shall be replaced and maintained by the
18 property owner.

19
20 ~~(B) Relocation or replacement. As a condition of the granting of a permit,~~
21 ~~the applicant may be required to relocate the trees being removed or~~
22 ~~required to replace the trees being removed with suitable replacement trees,~~
23 ~~somewhere within the site.~~

24
25 (B) If replacement trees are required in order to meet the minimum
26 number of trees required, two replacement trees shall be required for every
27 tree with less than a 12-inch caliper that is removed. Three replacement
28 trees shall be required for every tree with a caliper between 12 inches and
29 24 inches (inclusive) to be removed. Four replacement trees shall be
30 required for every tree with a caliper in excess of 24 inches that is removed.
31 Replacement trees shall not be required for the removal of any type of pine
32 tree up to 12 inches DBH. In addition to standard replacement, the site must
33 meet the minimum site plan landscaping requirements, and the tree size and
34 location requirements of this section.

35
36 (C) In determining the required relocation or replacement of trees, the
37 City Manager shall consider the needs of the intended use of the property
38 together with a realistic evaluation of the following:

39
40 (1) Existing tree coverage.

1 (2) Number of trees to be removed on the entire property.

2
3 (3) Area to be covered with structures, parking, and driveways.

4
5 (4) Topography and drainage of the site and its environs.

6
7 (5) Character of the site and its environs.

8
9 (6) Ecology of the site.

10
11 (7) Characteristics and amount of shrubs, grass, and trees proposed
12 for planting on the site by the applicant.

13
14 (D) Alternatives to standard replacement. If the total number of trees
15 required cannot be accommodated on a site, the total caliper inches shall be
16 met by:

17
18 (1) The placement of fewer but larger trees as approved by the Parks
19 and Recreation Director (e.g. if a fifteen inch caliper tree is removed, then
20 total caliper inches replaced must be at least nine inches as in the placement
21 of three three-inch caliper trees or two trees each with 4 ½ caliper);

22
23 (E) Limited Exception for Existing Single Family Lots. Notwithstanding
24 any other tree replacement standards set forth in this section, an Arbor
25 Permit for a single tree shall be granted, as a matter of right, for each
26 existing single family home lot, provided that the Community Development
27 Department determines that:

28
29 (1) The tree is not an historic tree;

30
31 (2) The tree canopy covering the pervious portion of the lot after
32 removal of the tree will be greater than fifty percent; and

33
34 (3) A permit under this subsection (E) had not been granted during
35 the preceding ~~ten (10)~~ three (3) year period.

36
37 (F) Replacement Stock.

38 (1) In all cases wherein this subchapter shall require replacement of
39 any tree removed, the replacement shall be made with replacement stock.
40 Survival of replacement stock will be guaranteed until that replacement

1 stock shall meet the definition of a tree as defined in § 157.02. Trees listed
2 in § 157.17(3) of this subchapter shall not qualify as replacement stock.

3
4 (2) Replacement stock may be any species listed in Section
5 157.07(F)(1) and (2), or as approved by the City.

6
7 (3) The following trees may not be used as replacement stock:

- 8 (a) Silk Oak (*Grevillea robusta*)
- 9 (b) Jacarandra (*Jacaranda acutifol*)
- 10 (c) Australian Pine (*Casuarina species*)
- 11 (d) Eucalyptus Robusta (*Eucalyptus robusta*)
- 12 (e) Ear Tree (*Enterlobium cyclocarpus*)
- 13 (f) Punk Tree (*Melaleuca leucadeudia*)
- 14 (g) Camphor Tree (*Cinnamomum camphora*)
- 15 (h) Golden Rain Tree (*Koelreuteria paniculata*)
- 16 (i) Cajeput Tree (*Melaleuca eucadendra*).
- 17 (j) American Mulberry (*Morus rubra*).
- 18 (k) Chinaberry (*Melia azedarach*).
- 19 (l) Black Cherry (*Punus serotina*).
- 20 (m) Sand Pines.
- 21 (n) Chinese Tallow (*Sapium sebiferum*).
- 22 (o) Rosewood (*Dalbergia sissoo*).

23
24 (Ord. 153, passed 9-2-82; Am. Ord. 711, passed 8-4-94; Am. Ord. 764,
25 passed 12-21-95).

26 ~~§157.21~~ §157.18 APPEALS PROCEDURE.

27 (A) Any person adversely affected by a decision of any city official or
28 employee in the enforcement or interpretation of this chapter, may appeal
29 such decision to the ~~Parks and Recreation~~ Arbor Board who, by a majority
30 vote may affirm, reverse, or modify the decision. The motion of the ~~Parks~~
31 ~~and Recreation~~ Arbor Board shall be approved by a majority of those
32 members present and voting, except that at least four of the seven member
33 Board must vote in favor of the motion for the motion to be official. Any
34 aggrieved party may appeal any decision of the ~~Parks and Recreation~~ Arbor
35 Board to the City Commission who may affirm, reverse, or modify the
36 decision. Any decision of the City Commission is subject to review by the
37 circuit court by certiorari.

38
39 (B) Any person attempting to comply with the Florida ATM security act or
40 other state mandated public safety requirement adversely affected by any

1 decision of any city official or employee in the enforcement or interpretation
2 of this chapter may appeal directly to the City Commission for relief. The
3 ~~Parks and Recreation~~ Arbor Board would be by-passed in an effort to quickly
4 and efficiently resolve any alleged public safety issues. Such appeals will be
5 placed on the next available City Commission agenda provided that the
6 appeal is received by the city at least seven days prior to the date on which
7 the City Commission will hear the appeal. Any decision of the City
8 Commission is subject to review by the certificate court by certiorari. (Ord.
9 153, passed 9-2-82; Am. Ord. 711, passed 8-4-94; Am. Ord. 764, passed
10 12-21-95

11
12
13
14
15
16 **~~§ 157.15~~ 157.19 ADMINISTRATIVE VARIANCES.**

17 The City Manager or his designee shall be authorized to approve
18 variances for the following development standards in order to protect trees
19 with a caliper of 12 inches or greater only:

20
21 (A) Setbacks for principal and accessory buildings and structures, and
22 vehicular use areas. Maximum reduction, 20%.

23
24 (B) Parking (number of spaces) standards. Maximum reduction, 5% or
25 one space (whichever is more).

26
27 (C) Parking space length up to 1.5 feet.

28
29 (D) Landscape break spacing (up to 120-foot separation)

30
31 (E) Landscape breaks may be relocated to protect significant trees.

32
33 (Ord. 711, passed 8-4-94; Am. Ord. 764, passed 12-21-95)

34
35 **~~§157.23~~ §157.20 VIOLATION; DENIAL OF PERMITS AND**
36 **CERTIFICATES.**

37 No building permits shall be issued on lands where violations of this
38 subchapter are determined to exist, until such time as the City agrees to
39 appropriate remedial action and completed by the owner of the land. A

1 certificate of occupancy shall not be issued for any construction until all
2 applicable remedies have been accomplished.
3 (Ord. 153, passed 9-2-82; Am. Ord. 711, passed 8-4-94; Am. Ord. 764,
4 passed 12-21-95)
5

6 **~~§157.17~~ 157.21 TREE PRESERVATION DURING**
7 **DEVELOPMENT AND CONSTRUCTION.**

8 The City Manager, or his designee may conduct periodic inspections of the
9 site before work begins and during clearing, contraction, and post-
10 construction phases of development in order to insure compliance with the
11 intent of this chapter.

12
13 (A) Development prohibited within the tree protection area.

14
15 (1) All development activities shall be prohibited within areas
16 designated by the City Commission and/or Planning and Zoning Board as a
17 tree protection area for the preservation of existing trees. Prohibited
18 activities shall include, but are not limited to, construction of buildings,
19 structures, paving surfaces, compaction, cutaways, stormwater retention
20 ponds, and/or trenching. All temporary construction activities shall also be
21 prohibited within the tree protection areas, including but not limited to,
22 digging, trenching, construction lay-down areas, material storage, and
23 parking of construction vehicles or employee vehicles. Installation of
24 irrigation in a tree protection area is exempt from this prohibition.

25
26 (2) Finding alternative parking arrangements for construction crews
27 must be an integral part of the tree protection plan.

28
29 (B) Fencing of undisturbed areas. Prior to the commencement of
30 construction, the developer shall enclose the entire tree protection area
31 within a fence or similar barrier approved by the City.

32
33 (1) Wooden or equivalent posts at least four by four inches shall be
34 implanted a minimum of three feet in the ground and with at least four feet
35 visible above the ground.

36
37 (2) The protective posts shall be placed not more than six feet apart
38 and shall be linked together by two rows of two by four inch wooden boards
39 spaced not farther than 2.5 feet apart.
40

1 (3) Protective posts and railings shall not be attached to or secured
2 to the trees in the tree protection area (See Illustration 1).

3
4 (a) Trees to be protected shall be located within a tree
5 protection area that shall conform to the following minimum standards:

6 **(Insert Illustration #1)**

7
8

	<i>Trees Less Than 12-Inch Caliper</i>	<i>Trees 12 Inch Or Greater Caliper</i>
10 Setback from trunk	6 feet *	10 feet *
11 Area - single tree	250 sq. ft.	800 sq. ft.
12 Area - each 13 additional tree 14 in a group **	90 sq. ft.	200 sq. ft.

15
16
17
18 * Tree barricades shall be placed under the dripline of the trees.

19
20 ** The largest tree in any group shall be considered the first tree for
21 counting purposes.

22
23 (4) Setbacks from trunks shall be measured from each individual tree
24 in a group.

25
26 (5) Each tree protection area shall have a minimum of two signs (see
27 illustration 2 below) securely attached to the fence barrier which shall face
28 to the exterior of the tree protection area. The minimum size of a sign
29 must be six square feet and each sign must have the following language
30 legibly printed in characters a minimum of 1.5 inches high on its face:

31
32
33 "TREE PRESERVATION AREA. Machinery, dumping construction,
34 parking, or storage of any materials is PROHIBITED! by City of
35 Lake Mary Code. Violators are subject to municipal infraction
36 citations of \$100.00 per violation. Enforced by the City
37 Community Development Department."

38
39 (6) Each sign must be made of rigid material such as wood, metal, or
40 durable plastic. Non-rigid materials such as paper, cardboard, cellophane,
41 or foil are not acceptable.

1 [See hard copy of Code for Figure.]
2 (Ord. 153, passed 9-2-82; Am. Ord. 711, passed 8-4-94; Am. Ord. 764,
3 passed 12-21-95)

4
5 (Insert Illustration #2)

6 ~~§157.19~~ **§157.22 REGULATIONS PERTAINING TO UTILITY**
7 **COMPANIES.**

8 (A) Whenever any electric, water, telephone, or other public utility firm
9 or corporation wishes to extend, maintain, or relocate service such that any
10 tree on any unimproved lot or tract will be removed, they shall make
11 application for a permit to do so. Any public utility wishing to prune trees on
12 a right-of-way shall notify the Public Works Department in writing in advance
13 of the time and place these pruning activities will take place. The Public
14 Works Department shall supervise these activities as necessary and shall
15 have the authority to regulate or halt such pruning when these actions are
16 deemed detrimental to the trees or beyond that needed to insure continued
17 utility service.

18
19 (B) A utility company shall not remove or alter any trees at a distance
20 greater than five feet from the utility pole, structure, or conductor within the
21 city without a permit having first been obtained.

22 (Ord. 153, passed 9-2-82; Am. Ord. 711, passed 8-4-94; Am. Ord. 764,
23 passed 12-21-95)

24
25 ~~§ 157.20~~ **§ 157.23 PRUNING PERMIT.**

26 (A) The owner of a property, tenant, or agent shall not trim, prune,
27 remove living branches or cause the diminution of the crown of any canopy
28 tree or understory tree without having first obtained a pruning permit.
29 Existing All single-family and duplex developments one and two-family
30 dwelling units shall be exempt from this section.

31
32 (B) Tree Pruning Standards

33
34 (1) Standards adopted. Proper pruning practices as stated in the
35 National Arborist Association's (NAA) Pruning Standards for Shade Trees are
36 required by this ordinance. The practice of "topping" or "hatracking" is
37 considered unacceptable by the NAA Standards. In compliance with these
38 standards, "...Every effort should be made to cut back to a lateral at least
39 one-third to one-half the diameter of the parent limb or leader that is being
40 removed. Cuts not made to a suitable lateral, sometimes called topping

1 cuts, shall not be permitted.” Except in the permitted cases (for topiary
2 pruning), trees shall be pruned to a shape typical of their species.

3
4 (C) Unlawful Pruning. Shearing, Hat Racking, Topping or Poodle Trimming
5 of Trees (Lollipop), Lions-tailing, Pollarding of Trees. Trees intended for
6 shade purposes shall be allowed to reach their mature canopy spread. It
7 shall be unlawful to engage in excessive pruning techniques on trees
8 intended for shade purposes. Excessive shearing, pruning or shaping shall
9 only be allowed with a permit by demonstrating necessity or without a
10 permit in times of emergency only. The following are deemed unlawful
11 excessive pruning techniques, which are prohibited on shade trees:

12
13 (1) Lions Tailing: the improper practice of removing most secondary
14 and tertiary branches from the interior portion of the canopy leaving most
15 live foliage at the edge of the canopy.

16
17 (2) Topping, hatracking, stag heading, de-horning, lopping, and
18 rounding over: the improper practice of reducing tree size by making
19 heading cuts through a stem more than two years old; a pruning practice
20 that destroys tree architecture and serves to initiate discoloration and
21 perhaps decay in the cut stem.

22
23 (3) Pollarding: the pruning technique that removes sprouts back to the
24 same location annually or biannually maintaining a tree to a specific height.

25
26 (4) Shearing: a pruning technique which is typically accomplished with
27 cuts made through wood less than a year old at the sides of the canopy to
28 create uniform dense canopies.

29
30 (5) Poodle trimming: combines shearing and removing lower limbs to
31 create tree forms that look like a “lollipop.”

32
33 (D) Substantial alteration. Approval and a permit must be obtained from
34 the city prior to removal of 25 percent or more of the natural crown of the
35 tree.

36
37 (E) Permit application procedures. Pruning permits shall be applied for
38 City and granted in accordance the regulations set forth in § 157.23 of this
39 chapter. The following procedures shall be followed and shall govern the
40 granting of all permits pursuant to this section.

1 (1) Submittals. A permit fee of thirty (\$30) dollars shall ~~not~~ be
2 charged for authorized tree pruning within the city. Each application permit
3 to alter, trim, prune, or reduce the canopy or crown of trees herein shall be
4 accompanied by a written statement indicating the reasons for the requested
5 action and two copies of a legible site plan drawn to the largest practicable
6 scale indicating the following:

7
8 (a) Location of all existing or proposed structures,
9 improvements, and site uses, properly dimensioned in reference to property
10 lines, setback and yard requirements in spatial relationship.

11
12 (b) Proposed changes, if any, in site elevations, grades and
13 major contours.

14
15 (c) Location of existing or proposed utility service.

16
17 (d) Applications involving developed properties may be based
18 on drawings showing only that portion of the site directly involved and
19 adjacent structures and landscaping or natural growth incidental hereto.

20
21 (e) Location of all existing trees to be pruned with a note
22 indicating the size and species as well as the extent of pruning and methods
23 of maintaining tree health.

24
25 (2) Application review. Upon receipt of proper application, the City
26 Manager or his designated agent shall review said application, which may
27 include a field check of the site and referral of the application for
28 recommendations to other appropriate administrative departments or
29 agencies.

30
31 (F) Permits for pruning.

32
33 (1) Issuance. No permit for pruning shall be issued unless one of the
34 following conditions exist:

35
36 (a) The branches to be pruned obstruct vision along a traveled
37 public or private way.

38
39 (b) The branches to be pruned interface with vehicular or
40 pedestrian travel lanes and present a safety hazard.

1 (c) The branches to be pruned are diseased, damaged, or in danger
2 of falling.

3
4 (d) The branches to be pruned interfere with utility lines, existing or
5 proposed structures so as to endanger such structures.

6
7 (e) The removal of specific living parts of the tree will increase fruit
8 or flower production or will facilitate the health of the tree as a whole.

9
10 (2) Permit form. Permits shall be issued in such form as may be
11 prescribed by the City Manager or his designee and may set forth in detail
12 the conditions upon which the permit is granted. One permit may cover
13 several trees or groups of trees as long as the same can be clearly identified
14 thereon; however, no permit may be issued for more than one parcel or area
15 of land unless said parcels or areas of land shall be contiguous to one
16 another.

17
18 (G) Unauthorized pruning of trees. If a tree not authorized for pruning is
19 altered, pruned, trimmed, or diminished in canopy such that its susceptibility
20 to disease or other detrimental environmental factors is significantly
21 increased which may result in premature death or so that the purposes of
22 this chapter are not serviced, the general contractor and/or property owner
23 shall pay to the city an initial fine of \$100 per tree pruned plus a fine related
24 to the size of the tree pruned as follows:

25
26 **Size of Tree Pruned**
27 **Measured One Foot**
28 **Above the Ground** **Fine**
29
30 6 inches to <12 inches \$ 600
31
32 12 inches to <24 inches \$ 900
33
34 >24 inches \$ 1,200

35
36 (H) Appeals procedure. Any person adversely affected by a decision of
37 any city official or employee in the enforcement or interpretation of this
38 chapter, may follow appeal procedures as set forth in § 157.21.

39 (Ord. 764, passed 12-21-95)
40
41

1
2